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Attorneys for Plaintiffs
CORY SPENCER, DIANA MILENA
REED, and COASTAL PROTECTION
RANGERS, INC.

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual;
DIANA MILENA REED, an
individual; and COASTAL
PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation,

Plaintiffs,

CASE NO. 2:16-cv-02129-SJO (RAOx)

**DECLARATION OF VICTOR OTTEN
IN SUPPORT OF THE MOTION TO
COMPEL DEFENDANT, SANG
LEE'S PRODUCTION OF
DOCUMENTS**

**[Filed Concurrently with: Statement
Regarding Plaintiffs Motion to Compel
Production of Documents]**

1
2 v.

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
12 and N. F.; CITY OF PALOS VERDES
13 ESTATES; CHIEF OF POLICE JEFF
14 KEPLEY, in his representative
15 capacity; and DOES 1-10,

16 Defendants.

Judge: Hon. Rozella A. Oliver
Date: September 6, 2017
Time: 10:00 am
Crtrm.: _F- 9th Floor__

Complaint Filed: March 29, 2016
Trial Date: November 7, 2017

17 I, VICTOR OTTEN, declare as follows:

18 1. I am attorney licensed to practice under the laws of the State of
19 California and am duly admitted to practice before this court. I am an attorney of
20 record for Plaintiffs Cory Spencer, Diana Milena Reed, and the Coastal Protection
21 Rangers, Inc. I have personal knowledge of the facts set forth herein, and if called
22 as a witness, I could and would competently testify to the matters stated herein.

23 2. Defendants Alan Johnston, Charley Ferrara, Frank Ferrara, Angelo
24 Ferrara and NF all failed to produce a single document in response to Plaintiffs
25 Requests for Production of Documents, Set One. Each of their responses were full
26 of improper objections and stated that the defendants were not in possession of
27 responsive documents. It took a Motion to Compel Defendant Johnston and a Court
28 Order to respond to finally discovery what appeared obvious which was that
Johnston had withheld evidence and deleted text messages from his cell phone.
When the Plaintiffs finally received the first document from Mr. Johnston, it

1 contained an email from Bay Boy Charlie Mowat to Defendant Alan Johnston and
2 eight others that states: "My source tells me that a class action lawsuit is in the
3 works against the "bay boys" and the city of PVE Probably that Diana bitch" and
4 cautioned everyone "to be on the ultra down-low." Mowat admits that he sent the
5 text. Although having never met Plaintiff Diana Reed, stated: "No. I just think she
6 was -- I could tell people's body language and the way people are and she just
7 looked like a bitch to me and a liar." (Mowat Dep. 190:12-14; 187:8-18) (Attached
8 as **Exhibit 1** to this Declaration is a true and copy of the text; also, attached hereto
9 as **Exhibit 5** is a true and correct copy of the aforementioned excerpts from the
10 deposition of Defendant, Charlie Mowat.)

11 3. Defendant Sang Lee's Responses to Plaintiffs Requests for Production
12 of Documents, Set One, withheld hundreds of documents and no privilege log was
13 attached. Finally, when a privilege log was provided, it was unintelligible. This is
14 best observed by the following example:

BATES NUMBER	DOCUMENT DESCRIPTION	FROM	TO	PRIVILEGE CLAIMED
Lee 0000114	Incoming and outgoing text messages from 1/28/16-2/10/16	Pete Babros Individuals unrelated to this lawsuit.	Sang Lee	Information non- responsive to the request was redacted

23
24 4. There is no reason to lump the texts from a 13-day period, especially
25 when one of the most significant events occurring in this lawsuit was on January 29,
26 2016. Because the Court recently ordered Sang Lee's attorneys to produce an un-
27 redacted extraction report, we now know that the privileges asserted were totally
28 bogus. For example, there were texts messages to the following people that plaintiffs

1 have identified as Bay Boys: Michael S. Papayans, Reno Caldwell. Most
2 importantly on that date, there were at least 18 text messages between Sang Lee and
3 Brant Blakeman which had been deleted. Defendant Blakeman, however, testified in
4 his deposition rarely used his cell phone to text and when he did it was only with his
5 wife.

6 Q. Do you receive texts on your phone?

7 A. No. I -- no. I mean -- from my wife and stuff,
8 (Blakeman Depo., 241:5-7) (Attached as **Exhibit 2** to this Declaration are true and
9 correct pages of the excerpts of the transcript from the deposition of Brant
10 Blakeman)

11 5. When Blakeman was asked in his deposition for the number of his cell
12 phone, he gave Plaintiffs' counsel an incorrect phone number, identifying the last
13 four digits of his cell phone number as "7634"); Defendant Blakeman's Response to
14 Plaintiff Diana Reed's First Set of Interrogatories, Interrogatory No. 1 (identifying
15 the last four digits of his cell phone number as "7934").

16 Q. Do you text on your flip phone?

17 A. Yes.

18 Q. What's the telephone number for that phone?

19 A. I use it so infrequently I -- 47 -- wait, wait. (424)477-7634, I
20 think or...

21 (Blakeman Depo., 14:19-25) (A true and correct copy of the aforementioned
22 excerpts from the transcript of the deposition of Defendant, Brant Blakeman are
23 attached as **Exhibit 3**)

24 6. When asked if he ever received a text about the incident at Lunada Bay
25 with Diana Reed, Blakeman stated "No". As it turns out, Blakeman was not being
26 truthful. In the phone extraction report that the Court ordered Defendant Sang Lee
27 to produce, it shows that there were many text messages involving Blakeman that
28 had been deleted.

1 7. In response to a request for production of documents seeking text
2 messages with co-Defendants, Defendants Charlie and Frank Ferrara claimed not to
3 possess any such evidence. But, text messages from those Defendants also appeared
4 in the extraction report of Sang Lees phone and indicate that they were not deleted
5 (see LEE000673 and LEE000081). Despite statements made by this Court at the
6 July 27, 2017 hearing regarding Plaintiffs right to discovery, the Defendants still
7 have refused to turn over discovery.

8 8. On information and belief, it is clear that the Defendants and their
9 attorneys have intentionally withheld and continue to withhold evidence. It is also
10 evident that the Defendants have intentionally destroyed evidence. It is my
11 understanding that, the Plaintiffs have been severely prejudiced in the fact that they
12 had to file oppositions to Defendants Motions for Summary Adjudication without
13 evidence in the possession of Defendants and/or their attorneys. Additionally, and
14 even more problematic is that the Defendants have destroyed evidence. Plaintiffs are
15 requesting that Defendant Sang Lee be ordered to produce all the documents that
16 have not been turned over, an order that the objections and/or privileges are not
17 proper, and order that Defendant Sang Lee and his attorneys improperly withheld
18 documents and an order that Defendant Sang Lee destroyed evidence.

19 9. Plaintiffs are requesting that Defendant Sang Lee be ordered to produce
20 all the documents that have not been turned over, and a ruling that the objections
21 and/or privileges are not proper. Plaintiffs are also seeking an order that Defendant
22 Sang Lee and his attorneys improperly withheld documents and an order that
23 Defendant Sang Lee destroyed evidence.

24 10. On July 6, 2016, Plaintiffs' counsel sent a litigation hold letter to the
25 attorney for Sang Lee, Edward E. Ward, Jr., requesting that he remind his client not
26 to alter, delete or destroy any evidence relating to the lawsuit. (A true and correct
27 copy of the correspondence to attorney for Sang Lee, dated July 6, 2016 is attached
28 hereto as **Exhibit 4**).

1 11. On November 7, 2016, Plaintiff Cory Spencer served Request For
2 Production of Documents (Set One) on Defendant, Sang Lee. Among other things,
3 these requests seek copies of text messages and emails between Defendant Lee and
4 other individuals whom Plaintiffs believe were involved in the incidents described
5 in Plaintiffs' lawsuit. (A true and correct copy of the Plaintiff's aforementioned
6 Request for Production of Documents is attached hereto as **Exhibit 6**)

7 12. Defendant Sang Lee's Responses to Plaintiffs Requests for Production
8 of Documents, Set One, and the accompanying production bearing Bates labels Lee
9 00000001 through 000000596, were served on December 12, 2016. The response
10 contained 43 documents. The Bates No. of the last document produced is
11 LEE0000592 indicating that 549 documents are being withheld but no privilege log
12 was attached. Document number LEE0000029 is an extraction report for Sang Lee's
13 phone which was created on December 7, 2016. (A true and correct copy of
14 Defendant, Sang Lee's Responses to the Request for Production of Documents is
15 attached hereto as **Exhibit 7**)

16 13. On December 20, 2016 Plaintiffs' counsel sent a meet and confer letter
17 to Tera Lutz regarding Sang Lees Responses to Plaintiffs Request for Production of
18 Documents. Set One. The letter raised various issues regarding Mr. Lee's Responses
19 to Plaintiffs Requests for Production of Documents, Set One. In summary, several of
20 Lee's responses to Request for Production of Documents failed to state if he is in
21 possession of responsive documents. Even more of the responses contained
22 unwarranted objections such as "vague, ambiguous, and overbroad." When asserting
23 those objections, Lee did not specify the basis for such objections. In response to
24 Request No. 31, Lee improperly objected to Plaintiffs request for Lee's cell phone
25 bills since January 1, 2013, on the grounds that the Request "seeks information
26 protected by fundamental federal and state privacy principals, privileges, and laws."
27 Yet the parties had entered into a protective order. Yet the parties had entered into a
28 protective order. (A true and correct copy of Plaintiff's counsel's correspondence

1 regarding Sang Lee's Responses to the Request for Production of Documents, dated
2 December 20, 2016 is attached hereto as **Exhibit 8**).

3 14. On or about January 24, 2017 Plaintiffs' counsel wrote to Sang Lee's
4 attorneys requesting pursuant to the Federal Rules of Civil Procedure and the Local
5 Rules of the Central District of California to meet and confer in a good faith effort to
6 eliminate or narrow the issues raised in this letter.

7 15. On Wednesday, February 1, 2017, I, and Tera Lutz of Lewis Brisbois
8 Bisgaard & Smith and Daniel Crowley of Booth Mitchel & Strange on behalf of
9 Defendant Sang Lee met and conferred at Otten Law, PC. While originally, I
10 believed that our meet and confer was conducted in good faith, that belief has been
11 challenged by what appears to be efforts on the part of Lee to withhold relevant
12 evidence.

13 16. On or about May 25, 2017 Plaintiffs' counsel sent a follow-up meet and
14 confer to Sang Lees attorneys regarding the Responses to Plaintiffs Request for
15 Production of Documents. Set One. (A true and correct copy of the Plaintiffs'
16 follow up meet and confer letter to Sang Lee's attorneys dated May 25, 2017 is
17 attached hereto as **Exhibit 9**)

18 17. Sang Lee's attorneys responded by letter dated May 26, 2017. The
19 three-paragraph letter failed to address nearly all of the issues raised in Plaintiffs
20 previous attempts to meet and confer. The letter states: "Redacted messages are
21 between Mr. Lee and family members and friends unrelated to this mater." Because
22 the Court recently ordered Sang Lee's attorneys to produce an un-redacted
23 extraction report, we now know that this is not true. For example, there were texts
24 messages to Bay Boys Michael S. Papayans and Reno Caldwell. (A true and correct
25 copy of Sang Lee's attorneys' response correspondence dated May 26, 2017 is
26 attached hereto as **Exhibit 10**)

27 18. Sang Lee's deposition was taken on May 31, 2017. Lee testified
28 regarding the preservation of evidence.

1 Q. Okay. After you became aware that you had an obligation to preserve
2 evidence related to this case, did you take any steps to preserve evidence?

3 A. Did I take any steps?

4 Q. Yes. Did you do anything to make sure that any evidence that you had
5 wasn't lost or destroyed?

6 A. I just didn't erase it. It's all there. P. 22: 20-25

7 Q. Did you ever do anything to download or image the E-Mails that had
8 on your phone related to this case?

9 THE WITNESS: Well, no, I don't believe so.

10 (Lee Depo., 23:9-16) (A true and correct copy of the aforementioned
11 excerpts of the deposition of Sang Lee is attached hereto as **Exhibit 11**).

12 19. On or about July 4, 2017 Plaintiffs' counsel sent Sang Lees attorneys
13 another meet and confer letter regarding the Responses to Plaintiffs Request for
14 Production of Documents. Set One. (A true and correct copy of the correspondence
15 to Sang Lee's attorney dated July 4, 2017 is attached hereto as **Exhibit 12**).

16
17 I declare under penalty of perjury under the laws of the State of California
18 that the foregoing is true and correct.

19
20 Executed August 7, 2017 in Torrance, California.

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22 /s/ Victor Otten
23 Victor Otten
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EXHIBIT 1

No Service 10:20 AM 44%
< Messages Group MMS Details
To: Jon, Charlie & 8 more...
Wed, Mar 30, 9:08 AM

Charlie Moet

My source tells me that a that a class action lawsuit is in the works against the "bay boys" and the city of PVE. Probably that Diana bitch. Watch out for subpoenas. Great time to be on the ultra down-low.

Text Message Send
No Service 10:20 AM 44%
< Messages Group MMS Details
To: Jon, Charlie & 8 more...
down-low.



No Service 10:20 AM 44%
< Messages Group MMS Details
To: Jon, Charlie & 8 more...
<http://www.theinertia.com/surf/surfers-file-a-federal-class-action-suit-against-lunada-bay-surf-gang/>

Super gay!! How'd they get the names?

+1 (310) 291-5981

Total joke of a lawsuit will fail. Call Dan

Text Message Send

No Service 10:21 AM 44%
< Messages Group MMS Details
To: Jon, Charlie & 8 more...

Total joke of a lawsuit will fail. Call Dan Dunbar. No "gang" exists. There is no group that meets the definition. There is hopefully no evidence that those named barred the plaintiffs from going surfing and no proof of any physical or economic damage.

Text Message Send
No Service 10:21 AM 44%
< Messages Group MMS Details
To: Jon, Charlie & 8 more...
physical or economic damage.

Charlie Moet

On a happier note. Four day Masters Golf party open house at my place April 7-10. Bring food and booze. Stop by anytime. No Fred!

Thu, Mar 31, 1:24 AM

+1 (310) 480-3207

Text Message Send
No Service 10:21 AM 44%
< Messages Group MMS Details
To: Jon, Charlie & 8 more...
On a happier note. Four day Masters Golf party open house at my place April 7-10. Bring food and booze. Stop by anytime. No Fred!

Thu, Mar 31, 1:24 AM

+1 (310) 480-3207

News van at the bay...looks like we'll be on TV again...

Text Message Send

EXHIBIT 2

1
2
3 UNITED STATES DISTRICT COURT
4 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
5

6 CORY SPENCER, and individual;)
7 DIANA MILENA REED, an individual;)
8 And COASTAL PROTECTION RANGERS, INC.,)
9 a California non-profit public)
benefit corporation,)

10 Plaintiffs,)

11 vs.)

No. 2:16-cv-

12 LUNADA BAY BOYS; THE INDIVIDUAL)
13 MEMBERS OF THE LUNADA BAY BOYS,)
including but not limited to)
14 SANG LEE, BRANT BLAKEMAN,)
ALAN JOHNSTON AKA JALIAN JOHNSTON,)
15 MICHAEL RAE PAPAYANS, ANGELO FERRARA,)
FRANK FERRARA, CHARLIE FERRARA, and)
16 N.F.; CITY OF PALOS VERDES ESTATES,)
CHIEF OF POLICE JEFF KEPLEY in his)
representative capacity and DOES)
1-10,)

02129-SJO
(RAOx)

17 Defendants.)
18)
19)
20)

21 VIDEO DEPOSITION OF BRANT BLAKEMAN, a witness
22 herein, noticed by HANSON BRIDGETT, LLP, at
23 736 Fourth Street, Hermosa Beach, California, at
24 9:31 a.m., on Monday, November 21, 2016, before
25 Ayu Sasao, CSR 14093.

Brant Blakeman

Cory Spencer vs. Lunada Bay Boys

1 You can respond.

2 THE WITNESS: I only saw him get one wave. I
3 paddled in pretty quick so --

4 BY MR. FRANKLIN:

5 Q. Did you -- do you know Christopher Taloa is, or
6 Chris Taloa?

7 A. Yes, I do.

8 Q. How do you know Christopher Taloa?

9 A. Oh, he's Mr. Aloha Point. And he's been
10 cruising around that same area or time and you know, and
11 was riding around on top of the cliffs acting like --
12 acting different.

13 Q. When you say acting different, what do you mean?

14 A. Just -- just being weird.

15 Q. Is there --

16 A. He tried to say somebody had a machete in the
17 trash can over by some area, and some police officers
18 came over and asked us about it. And we're like, what.
19 We saw him over by the Point trail. And then just had a
20 little crew or whatever.

21 Q. When you say, we saw him, who else saw him?

22 A. A couple friend of mine. I don't remember who
23 the friends were.

24 Q. You don't remember who you were with on that
25 day?

EXHIBIT 3

1
2
3 UNITED STATES DISTRICT COURT
4 CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION
5

6 CORY SPENCER, and individual;)
7 DIANA MILENA REED, an individual;)
8 And COASTAL PROTECTION RANGERS, INC.,)
9 a California non-profit public)
10 benefit corporation,)
11)

12 Plaintiffs,)
13)

14 vs.)

No. 2:16-cv-

15 LUNADA BAY BOYS; THE INDIVIDUAL)
16 MEMBERS OF THE LUNADA BAY BOYS,)
17 including but not limited to)
18 SANG LEE, BRANT BLAKEMAN,)
19 ALAN JOHNSTON AKA JALIAN JOHNSTON,)
20 MICHAEL RAE PAPAYANS, ANGELO FERRARA,)
21 FRANK FERRARA, CHARLIE FERRARA, and)
22 N.F.; CITY OF PALOS VERDES ESTATES,)
23 CHIEF OF POLICE JEFF KEPLEY in his)
24 representative capacity and DOES)
25 1-10,)

Defendants.)
)

21 VIDEO DEPOSITION OF BRANT BLAKEMAN, a witness
22 herein, noticed by HANSON BRIDGETT, LLP, at
23 736 Fourth Street, Hermosa Beach, California, at
24 9:31 a.m., on Monday, November 21, 2016, before
25 Ayu Sasao, CSR 14093.

Brant Blakeman

Cory Spencer vs. Lunada Bay Boys

1 A. Yes.

2 Q. How long have you owned the Panasonic
3 videocamera?

4 A. Approximately, four years.

5 Q. Do you own any, besides video, other types of
6 camera?

7 A. No.

8 Q. Do you have a cell phone?

9 A. I have a flip phone. I guess it's a flip phone.

10 Q. How long have you had your flip phone?

11 A. Approximately, five years.

12 Q. How long have you had that phone?

13 MR. COOPER: Asked and answered. What?

14 BY MR. FRANKLIN:

15 Q. You've had that phone five years?

16 A. Approximately --

17 Q. Do you have any other type of cell phone?

18 A. No.

19 Q. Can you text on your flip phone?

20 A. Yes.

21 Q. Do you text on your flip phone?

22 A. Yes.

23 Q. What's the telephone number for that phone?

24 A. I use it so infrequently I -- 47 -- wait, wait.

25 (424) 477-7634, I think or...

EXHIBIT 4



SAMANTHA D. WOLFF
SENIOR COUNSEL
DIRECT DIAL (415) 995-5020
DIRECT FAX (415) 995-3547
E-MAIL swolff@hansonbridgett.com

July 6, 2016

VIA ELECTRONIC MAIL ONLY

Edward E. Ward, Jr.
Attorney for Defendant Sang Lee
Lewis Brisbois Bisgaard & Smith LLP
633 W. 5th Street, Suite 4000
Los Angeles, CA 90071
Edward.Ward@lewisbrisbois.com

Re: *Spencer, et al. v. Lunada Bay Boys, et al.*, United States District Court for the Central
District of California, Case No. 2:16-cv-02129-SJO-RAO

Dear Mr. Ward:

This letter is intended to remind your client, Sang Lee, not to alter, delete or destroy any
evidence relating to the lawsuit.

As you are aware, the lawsuit includes claims for violations of the Bane Act, California Coastal
Act, 42 USC § 1983, and Public Nuisance. Evidence germane to the lawsuit is anything having
to do with this lawsuit, including communication related to non-locals surfing or using the
beach/ocean/park at Lunada Bay, any reference to this lawsuit, any reference to Cory Spencer,
any reference to Diana Milena Read, any reference to media interest in Lunada Bay, any
reference to "Aloha Point," any reference to Rory Carroll, any reference to Noah Smith, any
reference to Christopher Taloa, any reference to Jordan Wright, any reference to Seth Krel, any
reference to the Bay Boys or "Lunada Pirates," communication with Lunada Bay "locals,"
communication with the City of Palos Verdes Estates including any member of its police
department, communication with co-defendants, communication with D.J. Dreiling,
communication with retired Chief of Police Dan Dreiling, communication with David Melo,
communication with Luke Millican, communication with Aaron Rourke, communication with
David Dickey, communication with Robert Johnston, communication with Paul Hamilton,
communication with Nicholas Sinclair, communication with Nicholas Modisette, communication
with Hank Harper, communication with Mark Griep, communication with Adam Dia,
communication with Peter McCullom, communication with Brooke Bennett, communication with
Kelly Logan, communication with Dave Jessup, communication with Paul Higaboom,
communication with Cole Fiers, communication with Zen Del Rio, communication with Alex
Gray, communication with Joe Bark, communication with Frank Ponce, communication with
Amanda Calhoun, communication related to construction or maintenance of the "patio" or rock
fort at Lunada Bay, communication related to the trails for ingress and egress to Lunada Bay,
communication related to complaints about beach access for non-residents, including incidents
involving alleged intimidation, violence, assault, battery, verbal disagreements, and/or
harassment occurring at Lunada Bay or other Palos Verdes Estates beaches; the rock fort
structure at Lunada Bay; vandalism to private property (including, but not limited to,

automobiles) occurring at or near Lunada Bay; and any coordinated actions among the individually-named Defendants intended to dissuade non-locals from visiting, exploring and/or enjoying Lunada Bay and the surrounding areas. The foregoing shall be collectively referred to as "Potential Evidence" hereinafter in this letter.

I. Demand For Preservation Of Evidence

Mr. Lee is hereby given notice to immediately take all steps necessary to prevent the destruction, loss, concealment, or alteration of any paper, document, or electronically stored information ("ESI") related to Potential Evidence. Because ESI is an important and irreplaceable source of discovery and/or evidence in connection with the lawsuit described above, Plaintiffs may seek information from computer systems, removable electronic media and other locations controlled by Mr. Lee, as well as from anyone who is involved in the with matters relevant to the lawsuit described above. ESI should be afforded the broadest possible definition and includes, but is not limited to, the following: all e-mail, instant messaging, text messages, voice mail messages, image files (including PDF, TIFF, JPG, and GIF images), other electronic communications of the persons or entities identified above, word processing documents, spreadsheets, databases, calendars, telephone logs, video or audio files, and all other data or information generated by and/or stored on your existing or prior computers and storage media, or hosted on online storage systems, or existing on an Internet-based application, as well as any other media (e.g., hard disks, flash drives, backup tapes, etc.), as well as any social media posts or comments (e.g., Facebook, Instagram, Snapchat).

This directive extends to all ESI within Mr. Lee's possession and/or control. Because paper copies do not preserve electronic searchability or metadata, they are not an adequate substitute for ESI. If information exists in both electronic and paper form, Mr. Lee should preserve them both.

II. Instituting a "Litigation Hold"

Adequate preservation of ESI related to Potential Evidence requires more than simply refraining from efforts to destroy or dispose of such evidence. Mr. Lee must also intervene to prevent loss due to routine operations, whether automated or not, and employ proper techniques to safeguard all such evidence. Examples of such routine operations include, but are not limited to, purging the contents of e-mail repositories by age, capacity, or other criteria; using data or media wiping, disposal, erasure, or encryption utilities or devices; overwriting, erasing, destroying, or discarding backup media; reassigning, re-imaging or disposing of systems, servers, devices, or media; running antivirus or other programs that alter metadata; using metadata stripper utilities; and destroying documents or any ESI by age or other criteria. Mr. Lee should not pack, compress, purge, or dispose of any file or any part thereof.

Accordingly, Mr. Lee is requested to immediately institute a litigation hold for potentially relevant ESI, documents, and tangible things related to Potential Evidence, and to act diligently and in good faith to secure and audit compliance with that litigation hold. Because documents and ESI relevant to this lawsuit may stretch back a number of years, it is possible that relevant documents and ESI may only be preserved on ESI backup systems (e.g., backup tapes) or other media, or in other locations. Thus, backup data should be preserved until this determination can be made.

Mr. Lee is also requested to preserve and not destroy all passwords, decryption procedures (including, if necessary, the software to decrypt the files), network access codes, ID names, manuals, tutorials, written instructions, decompression or reconstruction software, and any and all other information and things necessary to access, view, and (if necessary) reconstruct any ESI related to Potential Evidence.

It is also imperative that any and all persons who have access to relevant documents and ESI be informed of the obligation to preserve those documents and ESI related to Potential Evidence and that sufficient steps are taken to ensure compliance now, and as this matter progresses.

III. Types of Data Preserved

A. Native Form

Mr. Lee should anticipate that certain ESI, including but not limited to photos, videos, and e-mails, will be sought in the form or forms in which they are ordinarily maintained (i.e., native form). Accordingly, Mr. Lee should preserve ESI of Potential Evidence in such native forms, and should not employ methods to preserve ESI that remove or degrade the ability to search the ESI by electronic means or that make it difficult or burdensome to access or use the information.

Mr. Lee should additionally refrain from actions that shift ESI from reasonably accessible media and forms to less accessible media and forms if the effect of such actions is to make such ESI not reasonably accessible.

B. Metadata

Mr. Lee should further anticipate the need to disclose and produce system and application metadata and act to preserve it. System metadata is information describing the history and characteristics of other ESI. This information is typically associated with tracking or managing an electronic file and often includes data reflecting a file's name, size, custodian, location and dates of creation and last modification or access. Application metadata is information automatically included or embedded in electronic files, but which may not be apparent to a user, including deleted content, draft language, commentary, collaboration and distribution data and dates of creation and printing. For e-mail, metadata includes all header routing data and encoded attachment data, in addition to the To, From, Subject, Received Date, CC, and BCC fields. Metadata may be overwritten or corrupted by careless handling or improper preservation, including by moving, copying or examining the contents of files.

IV. Servers

With respect to servers like those used to manage e-mail (e.g., Microsoft Exchange) and network storage, the entire contents of each network share and Mr. Lee's e-mail accounts should be preserved and not modified.

V. Storage

With respect to on-line storage and/or direct access storage devices attached to Mr. Lee's mainframe computers, in addition to the above, he is not to modify or delete any ESI, "deleted"

files, and/or file fragments existing on the date of this letter's delivery that contain Potential Evidence.

With regard to all electronic media used for off-line storage, including magnetic tapes and cartridges, optical media, electronic media, and other media or combinations of media containing Potential Evidence, Mr. Lee is requested to stop any activity which may result in the loss of any ESI, including rotation, destruction, overwriting and erasure in whole or in part. This request is intended to cover all media used for data or information storage in connection with Mr. Lee's computer systems, including magnetic tapes and cartridges, magneto-optical disks, and all other media, whether used with personal computers, mainframes or other computers, and whether containing backup and/or archival ESI.

VI. Computers

Mr. Lee should take immediate steps to preserve all ESI related to Potential Evidence on all computers used by him that in any way relate to the lawsuit. As to fixed devices: (1) a true and correct copy is to be made of all such ESI, including all active files and completely restored versions of all deleted electronic files and file fragments; (2) full directory listings (including hidden files) for all directories and subdirectories (including hidden directories) on such fixed devices should be written; and (3) all such copies and listings are to be preserved until all litigation is ended.

With respect to local hard drives, one way to protect existing data is by the creation and authentication of forensically sound images of the drives. Be advised that a conventional back up of a hard drive is not a forensically sound image. "Forensically sound ESI preservation" means duplication of all data stored on the evidence media while employing a proper chain of custody and using tools and methods that make no changes to the evidence and support authentication of the duplicate as a true and complete image of the original. A forensically sound preservation method guards against changes to metadata evidence and preserves all parts of the electronic evidence.

Mr. Lee should similarly take steps to preserve ESI on any and all portable systems. To the extent that he has sent or received potentially relevant e-mails or created or reviewed potentially relevant documents on portable systems, he must preserve the contents of systems, devices, and media used for these purposes (including not only potentially relevant data from portable and home computers, but also from portable thumb drives, CDs, DVDs, PDAs, smartphones, voice mailboxes, or any other forms of ESI storage) using Forensically sound ESI preservation. Additionally, if Mr. Lee used online or browser-based e-mail accounts (Gmail, etc.) or services to send or receive potentially relevant messages and attachments, including social media accounts (Facebook, Twitter, etc.), the contents of these account mailboxes must be preserved using Forensically sound ESI preservation.

VII. Evidence Created Or Acquired In The Future

With regard to documents, tangible things, and ESI that are created or come into Mr. Lee's custody, possession, or control subsequent to the date of delivery of this letter, he must preserve all Potential Evidence and take all appropriate action to avoid its destruction.

Litigation Hold – Sang Lee

#13212

July 6, 2016

Page 5

VII. Do Not Delay Preservation

Mr. Lee should not defer preservation steps. Should his failure to preserve Potential Evidence result in the corruption, loss or delay in production of evidence to which Plaintiffs are entitled, such failure would constitute spoliation of evidence, for which sanctions may be available.

Please contact me if you have any questions regarding this letter.

Sincerely,

/s/ Samantha Wolff

Samantha Wolff

cc: Kurt Franklin, Esq.
Victor Otten, Esq.
Tyson Shower, Esq.
Landon Bailey, Esq.
Caroline Lee, Esq.

EXHIBIT 5

Atkinson-Baker Court Reporters
www.depo.com

1 (Plaintiff's Exhibit X* was
2 marked for identification and
3 is attached hereto.)

4 BY MR. OTTEN:

5 Q. I'll represent to you that this is a string of
6 text messages that were given to us by Alan Johnston's
7 attorneys.

8 And if you look at -- it says at the top left,
9 Wednesday, March 30 th. From Charlie Mowat and this is
10 a group text so I'm going to ask you some questions
11 about who might be on this. But it attributes to you
12 the following, my source tells me that a class action
13 lawsuit is in the works against the quote, bay boys,
14 and the city of PVE. Probably that Diana bitch. Watch
15 out for subpoenas, great time to be on the ultra down
16 low.

17 Do you recall sending that text?

18 A. Yes.

19 Q. And who is your source?

20 A. I don't recall at the time.

21 Q. Well, your source was it Steve barber?

22 A. I don't think so.

23 Q. Who would know about the lawsuit?

24 A. I don't know.

25 MS. HEWITT: Calls for speculation.

Atkinson-Baker Court Reporters
www.depo.com

1 THE WITNESS: I probably shouldn't have said that.

2 BY MR. OTTEN:

3 Q. And why are you concerned at all? You weren't
4 a defendant.

5 MS. KARAPETYAN: Same objection.

6 THE WITNESS: I don't know.

7 BY MR. OTTEN:

8 Q. Because she's exposing Lunada Bay and bringing
9 outsiders there perhaps? Is that why she was a bitch?

10 MS. LUTZ: Objection; argumentative.

11 MS. KARAPETYAN: Calls for speculation vague.

12 THE WITNESS: No. I just think she was -- I could
13 tell people's body language and the way people are and
14 she just looked like a bitch to me and a liar.

15 BY MR. OTTEN:

16 Q. But you never met her?

17 A. I've seen her.

18 Q. Okay. So now you've seen her. Where did you
19 see her?

20 A. On the media. I've never seen her in person,
21 but I saw her on the news or videos or something.

22 Q. So prior to you writing this text the only
23 place you could have seen her was in a newspaper
24 article, correct?

25 A. I don't recall.

EXHIBIT 6

1 HANSON BRIDGETT LLP
KURT A. FRANKLIN, SBN 172715
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4 clee@hansonbridgett.com
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6 San Francisco, California 94105
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7 Facsimile: (415) 541-9366

8 HANSON BRIDGETT LLP
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13 OTTEN LAW, PC
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14 vic@ottenlawpc.com
KAVITA TEKCHANDANI, SBN 234873
15 kavita@ottenlawpc.com
3620 Pacific Coast Highway, #100
16 Torrance, California 90505
Telephone: (310) 378-8533
17 Facsimile: (310) 347-4225

18 Attorneys for Plaintiffs
CORY SPENCER, DIANA MILENA
19 REED, and COASTAL PROTECTION
RANGERS, INC.
20

21 **UNITED STATES DISTRICT COURT**
22 **CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION**
23

24 CORY SPENCER, an individual;
25 DIANA MILENA REED, an
individual; and COASTAL
26 PROTECTION RANGERS, INC., a
27 California non-profit public benefit
corporation,
28

CASE NO. 2:16-cv-02129-SJO (RAOx)

**PLAINTIFF CORY SPENCER'S
FIRST SET OF REQUESTS FOR
PRODUCTION TO DEFENDANT
SANG LEE**

Date: December 12, 2016
Time: 10:00 a.m.

PLAINTIFF CORY SPENCER'S FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT
SANG LEE

1 Plaintiffs,

2 v.

Place: Hanson Bridgett LLP, 425
Market Street, 26th Floor, San
Francisco, CA 94105

3 LUNADA BAY BOYS; THE
4 INDIVIDUAL MEMBERS OF THE
5 LUNADA BAY BOYS, including but
6 not limited to SANG LEE, BRANT
7 BLAKEMAN, ALAN JOHNSTON
8 AKA JALIAN JOHNSTON,
9 MICHAEL RAE PAPAYANS,
10 ANGELO FERRARA, FRANK
11 FERRARA, CHARLIE FERRARA,
12 and N. F.; CITY OF PALOS
VERDES ESTATES; CHIEF OF
POLICE JEFF KEPLEY, in his
representative capacity; and DOES
1-10,

13 Defendants.
14

15 PROPOUNDING PARTY: Plaintiff Cory Spencer

16 RESPONDING PARTY: Defendant Sang Lee

17 SET NO.: One

18 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Plaintiff
19 Cory Spencer requests that Defendant Sang Lee produce and permit
20 Plaintiff Cory Spencer to inspect, copy, test, or sample the following items in
21 Defendant's possession, custody, or control.

22 The production and inspection shall take place at Hanson Bridgett
23 LLP, 425 Market Street, 26th Floor, San Francisco, CA 94105, on December
24 12, 2016, at 10:00 a.m., unless other mutually agreeable arrangements are
25 made between counsel of record, and shall continue for so long as may be
26 reasonably required.

27 **DEFINITIONS**

28 As used in these interrogatories, the terms listed below are defined as

1 follows:

2 1. "YOU," and "YOUR" includes yourself, your agents, your
3 employees, your attorneys, your accountants, your investigators, and
4 anyone else acting on your behalf.

5 2. "PLAINTIFF" or "PLAINTIFFS" shall mean Cory Spencer, Diana
6 Milena Reed, and/or the Coastal Protection Rangers, Inc.

7 3. "DOCUMENT" or "DOCUMENTS" means any writing of any kind,
8 including originals and all no identical copies (whether different from the
9 originals by reason of any notation made on such copies or otherwise),
10 including without limitation correspondence, text messages, electronic mail
11 (e-mail), Facebook messages, posts or comments on Facebook or other
12 social media (e.g, Nextdoor, Patch, Instagram, Snapchat, Vine, and
13 YouTube), photographs, videos, memoranda, notes, calendars, diaries, logs,
14 statistics, letters, telegrams, minutes, contracts, reports, studies, checks,
15 invoices, statements, receipts, returns, warranties, guaranties, summaries,
16 pamphlets, books, prospectuses, interoffice and intraoffice communications,
17 offers, notations of any sort of conversation, telephone calls, meetings or
18 other communications, bulletins, magazines, publications, printed matter,
19 photographs, computer printouts, teletypes, telefaxes, invoices, worksheets
20 and all drafts, alterations, modifications, changes and amendments of any of
21 the foregoing, tapes, tape recordings, transcripts, graphic or aural records or
22 representations of any kind, and electronic, mechanical or electric records or
23 representations of any kind, or which you have knowledge or which are now
24 or were formally in your actual or constructive possession, custody or
25 control. Each draft, annotated, or otherwise non-identical copy is a separate
26 DOCUMENT within the meaning of this term. DOCUMENTS shall also
27 include any removable sticky notes, flags, or other attachments affixed to
28 any of the foregoing, as well as the files, folder tabs, and labels appended to

1 or containing any documents. DOCUMENTS expressly include all
2 ELECTRONICALLY STORED INFORMATION.

3 4. "ELECTRONICALLY STORED INFORMATION" shall mean the
4 original (or identical duplicate when the original is not available) and any
5 non-identical copies (whether non-identical because of notes made on
6 copies or attached comments, annotations, marks, transmission notations,
7 or highlighting of any kind) of writings of every kind and description inscribed
8 by mechanical, facsimile, electronic, magnetic, digital, or other means.
9 ELECTRONICALLY STORED INFORMATION includes, by way of example
10 and not by limitation, computer programs (whether private, commercial, or
11 work-in-progress), programming notes and instructions, activity listings of
12 email transmittals and receipts, output resulting from the use of any software
13 program (including word processing documents, spreadsheets, database
14 files, charts, graphs and outlines), electronic mail, and any and all
15 miscellaneous files and file fragments, regardless of the media on which
16 they reside and regardless of whether said ELECTRONICALLY STORED
17 INFORMATION exists in an active file, deleted file, or file fragment.
18 ELECTRONICALLY STORED INFORMATION includes without limitation
19 any and all items stored on computer memories, hard disks, diskettes and
20 cartridges, network drives, network memory storage, archived tapes and
21 cartridges, backup tapes, floppy disks, CD-ROMs, removable media,
22 magnetic tapes of all types, microfiche, and any other media used for digital
23 data storage or transmittal. ELECTRONICALLY STORED INFORMATION
24 also includes the file, folder tabs, and containers and labels appended to or
25 associated with each original and non-identical copy.

26 5. "POSSESSION, CUSTODY or CONTROL" includes the joint or
27 several possession, custody or control not only by the person to whom these
28 interrogatories are addressed, but also the joint or several possession,

1 custody or control by each or any other person acting or purporting to act on
2 behalf of the person, whether as employee, attorney, accountant, agent,
3 sponsor, spokesman, or otherwise.

4 6. "RELATING TO," "RELATED TO," "RELATES TO,"
5 or "REFERRING OR RELATING TO" means supports, evidences,
6 describes, mentions, refers to, comprises, constituting, containing,
7 concerning, stating, mentioning, discussing, or in any other way being
8 relevant to that given subject matter.

9 7. "PERSON" means any natural or juridical person, firm,
10 association, corporation, partnership, proprietorship, joint venture,
11 organization, governmental or public entity, group of natural persons or other
12 association separately identifiable, whether or not such association has a
13 separate juristic existence in its own right.

14 8. "COMMUNICATION(S)" means any oral, written or electronic
15 transmission of information, including but not limited to DOCUMENTS,
16 ELECTRONIC RECORDS, e-mails, texts, social media posting, meetings,
17 discussions, conversations, telephone calls, telegrams, memoranda, letters,
18 telecopies, telexes, conferences, messages, notes or seminars.

19 9. "ROCK FORT" means the unpermitted masonry-rock-and-wood
20 structure and seating area on the northern end of Lunada Bay.

21 10. "NON-LOCALS" means PERSONS who do not reside within
22 Palos Verdes Estates, PERSONS who do not regularly surf Lunada Bay, or
23 PERSONS who are not BAY BOYS.

24 11. For purposes of this Demand for Production of Documents, "BAY
25 BOYS" means any PERSON who has regularly surfed Lunada Bay at any
26 time, and has tried to exclude NON-LOCALS or nonresident beachgoers
27 from using Lunada Bay through intimidation, vandalism, violence, blocking
28 access to the beach (see, e.g., Palos Verdes Estates Municipal Code

9.16.030), or failing to follow BASIC SURFER ETIQUETTE. It also includes PERSONS who have regularly surfed Lunada Bay, and residents of Palos Verdes Estates, who have supported such efforts to exclude NON-LOCALS.

12. For purposes of this Demand for Production of Documents, "BASIC SURFER ETIQUETTE" means (a) first surfer up or on the wave closest to the peak has the right away, (b) not dropping in on a surfer already on a wave, (b) paddling wide around the break to get out to the waves, (c) keeping your board under control, hanging on to it, and looking out for other surfers, (d) helping other surfers in trouble. See, e.g., Palos Verdes Estates Municipal Code 9.16.010.

INSTRUCTIONS

1. Please produce all of the specified DOCUMENTS and ELECTRONIC RECORDS which are in YOUR possession, or available to YOU, or to which YOU may gain access through reasonable effort, including information in the possession of YOUR past and present attorneys, accountants, investigators, consultants, or other persons directly or indirectly employed or retained by YOU, or connection with YOU, or anyone else otherwise subject to YOUR control who maintains records on YOUR behalf, in YOUR name or otherwise under YOUR control.

2. Pursuant to Fed. R. Civ. P. 26(e), you are under a duty to supplement any response to this request for production for which you learn that the response is in some material respect incomplete or incorrect and if the additional or corrective information has not otherwise been made known to us during the discovery process or in writing.

3. All documents that respond, in whole or in part, to any part or clause of any paragraph of these document requests shall be produced in their entirety, including all attachments and enclosures. Only one copy need be produced of documents that are responsive to more than one paragraph

1 or are identical except for the person to whom it is addressed if you indicate
2 the persons or group of persons to whom such documents were distributed.
3 Documents that in their original condition were stapled, clipped, or otherwise
4 fastened together shall be produced in such form. Please place the
5 documents called for by each paragraph in a separate file folder or other
6 enclosure marked with Defendant's name and the paragraph to which such
7 documents respond, and if any document is responsive to more than one
8 request, indicate each request to which it responds.

9 4. With respect to DOCUMENTS that can be described as
10 ELECTRONIC RECORDS, those DOCUMENTS shall be produced in the
11 particular format identified below as determined by the type of
12 ELECTRONIC RECORDS at issue, unless otherwise agreed to by the
13 parties prior to the response deadline.

- 14 • Electronic mail ("email" and text messages) shall be produced in
15 TIFF format embedded with Bates numbers along with load files
16 for Concordance Software containing the email text and
17 metadata.
- 18 • Word processing documents, including but not limited to
19 PowerPoint presentations, shall be produced in TIFF format
20 embedded with Bates numbers along with load files for
21 Concordance Software containing the text and metadata.
- 22 • Excel Spreadsheets shall be produced in Native format with a
23 branded placeholder TIFF image, text, metadata and a link to the
24 Native file named by the Bates number.
- 25 • Structured data, such as data populating a digital flat-file,
26 relational, or enterprise database, shall be produced in the form
27 of summary reports or CSV files and, upon request, YOU shall
28 make this data available in native format for Plaintiffs' review.

- Scanned paper shall be produced in its electronic form embedded with Bates numbers along with all existing bibliographic coding and Optical Character Recognition ("OCR").

By providing the above list of the more common forms of ELECTRONIC RECORDS, PLAINTIFFS do not intend to waive their rights to specify the form(s) in which any other type of ELECTRONIC RECORDS are produced. If the type of ELECTRONIC RECORDS to be produced is not identified above, PLAINTIFFS request that YOU meet and confer regarding the format in which that ELECTRONIC RECORDS shall be produced prior to the response deadline.

5. For any document withheld under a claim of privilege, submit a sworn or certified statement from your counsel or one of your employees in which you identify the document by author, addressee, date, number of pages, and subject matter; specify the nature and basis of the claimed privilege and the paragraph of this demand for documents to which the document is responsive; and identify each person to whom the document or its contents, or any part thereof, has been disclosed.

6. For any document responsive to these document requests which is known to have been destroyed or lost, or is otherwise unavailable, identify each such document by author, addressee, date, number of pages, and subject matter; and explain in detail the events leading to the destruction or loss, or the reason for the unavailability of such document, including the location of such document when last in your possession, custody, or control, and the date and manner of its disposition.

7. In responding to any document request that calls for documents relating to "any person," or "each person," include information or documents relating to your company, if applicable.

8. Each document that is written in whole or in part in any language

1 other than English or that contains any marginal notations in such a
2 language must be accompanied by a certified verbatim English language
3 translation, and all existing English language versions, of all such writings
4 and notations.

5 **REQUESTS FOR PRODUCTION**

6 **REQUEST FOR PRODUCTION NO. 1:**

7 Any and all DOCUMENTS, REFERRING or RELATED TO any
8 PLAINTIFF.

9 **REQUEST FOR PRODUCTION NO. 2:**

10 Any and all DOCUMENTS, REFERRING or RELATED TO the
11 incident that occurred at Lunada Bay involving YOU and John MacHarg on
12 February 1, 2016.

13 **REQUEST FOR PRODUCTION NO. 3:**

14 Any and all DOCUMENTS, REFERRING or RELATED TO the
15 incident that occurred at Lunada Bay involving Sef Krell on or around
16 November 15, 2014.

17 **REQUEST FOR PRODUCTION NO. 4:**

18 Any and all DOCUMENTS REFERRING or RELATED TO a surfing
19 event organized by Chris Taloa at Lunada Bay for Martin Luther King, Jr.
20 Day that occurred at Lunada Bay on January 20, 2014.

21 **REQUEST FOR PRODUCTION NO. 5:**

22 Any and all DOCUMENTS, REFERRING or RELATED TO the incident
23 that occurred at Lunada Bay involving Michael Rae Papayans and Chris
24 Taloa on or around March 6, 2014.

25 **REQUEST FOR PRODUCTION NO. 6:**

26 Any and all DOCUMENTS, REFERRING or RELATED TO
27 Christopher Taloa.
28

1 **REQUEST FOR PRODUCTION NO. 7:**

2 Any and all DOCUMENTS, REFERRING or RELATED TO the Aloha
3 Point Facebook page.

4 **REQUEST FOR PRODUCTION NO. 8:**

5 Any and all DOCUMENTS, REFERRING or RELATED TO the ROCK
6 FORT.

7 **REQUEST FOR PRODUCTION NO. 9:**

8 Any COMMUNICATION with PERSONS who are interested in
9 protecting Lunada Bay from use by NON-LOCALS.

10 **REQUEST FOR PRODUCTION NO. 10:**

11 Any texts messages with surfers who regularly surf, or have regularly
12 surfed, Lunada Bay.

13 **REQUEST FOR PRODUCTION NO. 11:**

14 Any emails with surfers who regularly surf, or have regularly surfed,
15 Lunada Bay.

16 **REQUEST FOR PRODUCTION NO. 12:**

17 Any text messages or records of phone calls with a co-defendant in
18 this matter.

19 **REQUEST FOR PRODUCTION NO. 13:**

20 Any emails to or from a co-defendant in this matter.

21 **REQUEST FOR PRODUCTION NO. 14:**

22 Any text messages or records of a phone call with Hank Harper.

23 **REQUEST FOR PRODUCTION NO. 15:**

24 Any emails to or from Hank Harper.

25 **REQUEST FOR PRODUCTION NO. 16:**

26 Any text messages or records of a phone call with Frank Ponce.

27 **REQUEST FOR PRODUCTION NO. 17:**

28 Any emails to or from Frank Ponce.

1 **REQUEST FOR PRODUCTION NO. 18:**

2 Any text messages or records of a phone call with David Melo.

3 **REQUEST FOR PRODUCTION NO. 19:**

4 Any emails to or from David Melo.

5 **REQUEST FOR PRODUCTION NO. 20:**

6 Any text messages or records of a phone call with Mark Griep.

7 **REQUEST FOR PRODUCTION NO. 21:**

8 Any emails to or from Mark Griep.

9 **REQUEST FOR PRODUCTION NO. 22:**

10 Any text messages or records of a phone call with Kelly Logan.

11 **REQUEST FOR PRODUCTION NO. 23:**

12 Any emails to or from Kelly Logan.

13 **REQUEST FOR PRODUCTION NO. 24:**

14 Any text messages or records of a phone call with Daniel Dreiling, Jr.

15 **REQUEST FOR PRODUCTION NO. 25:**

16 Any emails to or from Daniel Dreiling, Jr.

17 **REQUEST FOR PRODUCTION NO. 26:**

18 Any text messages or records of a phone call with Adam Dia.

19 **REQUEST FOR PRODUCTION NO. 27:**

20 Any emails to or from Adam Dia.

21 **REQUEST FOR PRODUCTION NO. 28:**

22 Any and all DOCUMENTS REFERENCING surfers who regularly surf
23 at Lunada Bay.

24 **REQUEST FOR PRODUCTION NO. 29:**

25 Any and all DOCUMENTS REFERRING or RELATED TO NON-
26 LOCALS at Lunada Bay.

27 **REQUEST FOR PRODUCTION NO. 30:**

28 Any COMMUNICATION with PERSONS who regularly surf at Lunada

1 Bay, or who are considered locals at Lunada Bay.

2 **REQUEST FOR PRODUCTION NO. 31:**

3 YOUR cell phone bills since January 1, 2013.

4 **REQUEST FOR PRODUCTION NO. 32:**

5 Any and all DOCUMENTS REFERRING or RELATED TO the Palos
6 Verdes Estates Police Department.

7 **REQUEST FOR PRODUCTION NO. 33:**

8 Any and all DOCUMENTS REFERRING or RELATED TO the City of
9 Palos Verdes Estates, including but not limited to, its current or former City
10 Manager, current or former Mayor, current or former City Council, or current
11 or former individual members of the City Council.

12 **REQUEST FOR PRODUCTION NO. 34:**

13 Any and all DOCUMENTS REFERRING or RELATED TO the City of
14 Palos Verdes Estates Neighborhood Watch.

15 **REQUEST FOR PRODUCTION NO. 35:**

16 Any and all DOCUMENTS REFERRING or RELATED TO the Palos
17 Verdes Homes Association.

18 **REQUEST FOR PRODUCTION NO. 36:**

19 YOUR Homeowners Insurance Policy for all policy years from 2012 to
20 present.

21 **REQUEST FOR PRODUCTION NO. 37:**

22 Any and all DOCUMENTS REFERRING or RELATED TO an incident
23 occurring at Lunada Bay on November 28, 2009 involving the Palos Verdes
24 Estates Police Department.

25 **REQUEST FOR PRODUCTION NO. 38:**

26 Any and all DOCUMENTS or COMMUNICATIONS REFERRING or
27 RELATED TO an undercover video recorded by reporters from The
28 Guardian at Lunada Bay in or around May 2015.

1 **REQUEST FOR PRODUCTION NO. 39:**

2 Any text messages to or from Peter Babros.

3 **REQUEST FOR PRODUCTION NO. 40:**

4 Any emails to or from Peter Babros.

5 **REQUEST FOR PRODUCTION NO. 41:**

6 Any text messages to or from Joel Milam.

7 **REQUEST FOR PRODUCTION NO. 42:**

8 Any emails to or from Joel Milam.

9 **REQUEST FOR PRODUCTION NO. 43:**

10 Any text messages to or from Joe Bark.

11 **REQUEST FOR PRODUCTION NO. 44:**

12 Any emails to or from Joe Bark.

13 **REQUEST FOR PRODUCTION NO. 45:**

14 Any text messages to or from Charles Thomas Mowatt.

15 **REQUEST FOR PRODUCTION NO. 46:**

16 Any emails to or from Charles Thomas Mowatt.

17 **REQUEST FOR PRODUCTION NO. 47:**

18 Any text messages to or from Fred Strater.

19 **REQUEST FOR PRODUCTION NO. 48:**

20 Any emails to or from Fred Strater.

21 **REQUEST FOR PRODUCTION NO. 49:**

22 Any text messages to or from Michael S. Papayans.

23 **REQUEST FOR PRODUCTION NO. 50:**

24 Any emails to or from Michael S. Papayans.

25 **REQUEST FOR PRODUCTION NO. 51:**

26 Any text messages to or from Jon Lund.

27 **REQUEST FOR PRODUCTION NO. 52:**

28 Any emails to or from Jon Lund.

1 **REQUEST FOR PRODUCTION NO. 53:**

2 Any text messages to or from David Hilton.

3 **REQUEST FOR PRODUCTION NO. 54:**

4 Any emails to or from David Hilton.

5
6 DATED: November 7, 2016

HANSON BRIDGETT LLP

7
8 Bv: 

9 KURT A. FRANKLIN
10 SAMANTHA D. WOLFF
11 CAROLINE ELIZABETH LEE
12 JENNIFER ANIKO FOLDVARY
13 TYSON M. SHOWER
14 LANDON D. BAILEY
15 Attorneys for Plaintiffs
16 CORY SPENCER, DIANA MILENA
17 REED, and COASTAL PROTECTION
18 RANGERS, INC.
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PROOF OF SERVICE

Spencer, et al. v. Lunada Bay Boys, et al.; USDC, Central District of California, Case No. 2:16-cv-02129-SJO (RAOx)

STATE OF CALIFORNIA, COUNTY OF SAN FRANCISCO

At the time of service, I was over 18 years of age and not a party to this action. I am employed in the County of San Francisco, State of California. My business address is 425 Market Street, 26th Floor, San Francisco, CA 94105.

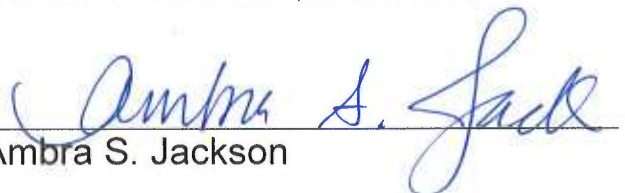
On November 7, 2016, I served true copies of the following document(s) described as **PLAINTIFF CORY SPENCER'S FIRST SET OF REQUESTS FOR PRODUCTION TO DEFENDANT SANG LEE** on the interested parties in this action as follows:

SEE ATTACHED SERVICE LIST

BY MAIL: I enclosed the document(s) in a sealed envelope or package addressed to the persons at the addresses listed in the Service List and placed the envelope for collection and mailing, following our ordinary business practices. I am readily familiar with Hanson Bridgett LLP's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the United States Postal Service, in a sealed envelope with postage fully prepaid.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct and that I am employed in the office of a member of the bar of this Court at whose direction the service was made.

Executed on November 7, 2016, at San Francisco, California.


Ambra S. Jackson

SERVICE LIST

Spencer, et al. v. Lunada Bay Boys, et al.; USDC, Central District of California, Case No. 2:16-cv-02129-SJO (RAOx)

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Peter H. Crossin
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E-Mail: pat@patcarevlaw.com

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EXHIBIT 7

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UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA, WESTERN DIVISION

CORY SPENCER, an individual;
DIANA MILENA REED, an
individual; and COASTAL
PROTECTION RANGERS, INC., a
California non-profit public benefit
corporation,

Plaintiffs,

vs.

LUNADA BAY BOYS; THE
INDIVIDUAL MEMBERS OF THE
LUNADA BAY BOYS, including but
not limited to SANG LEE, BRANT
BLAKEMAN, ALAN JOHNSTON
AKA JALIAN JOHNSTON,
MICHAEL RAE PAPAYANS,
ANGELO FERRARA, FRANK
FERRARA, CHARLIE FERRARA;
and N.F.; CITY OF PALOS
VERDES ESTATES; CHIEF OF
POLICE JEFF KEPLEY, in his
representative capacity; and DOES
1-10,

Defendants.

CASE NO. 2:16-cv-02129-SJO (RAOx)

Assigned District Judge Hon. S. James
Otero, Courtroom 10C

Discovery Assigned to Magistrate Judge
Hon. Rozella A. Oliver

**RESPONSES OF DEFENDANT
SANG LEE TO CORY SPENCER'S
REQUESTS FOR PRODUCTION
OF DOCUMENTS, SET ONE**

Date: December 12, 2016

Complaint filed: March 29, 2016
Trial Date: November 7, 2017

1 PROPOUNDING PARTY: Plaintiff CORY SPENCER

2 RESPONDING PARTY: Defendant SANG LEE

3 SET NO.: One

4 Pursuant to Rule 34 of the Federal Rules of Civil Procedure, Defendant,
5 SANG LEE (hereinafter "Defendant" or "Responding Party"), hereby responds to
6 Plaintiff, CORY SPENCER's Request for Production, of Documents, Set One,
7 served November 7, 2016, via mail service.

8 **GENERAL RESPONSE**

9 Discovery in this action is continuing, and responding party has not yet had a
10 reasonable opportunity to complete its investigation. The following responses and
11 objections state responding party's knowledge, information and belief as of the date
12 of such responses and responding party expressly reserves its right to rely upon
13 and/or introduce into evidence at trial such additional information or facts as it may
14 discover hereafter.

15 **GENERAL OBJECTIONS**

16 Defendant objects generally to any request to the extent that it calls for
17 the disclosure of classified or confidential information, the disclosure of which
18 might competitively injure Defendant or which might violate Defendant's right to
19 privacy as guaranteed under both the United States and the California Constitutions.

20 B. Defendant objects generally to any request to the extent that it calls for
21 information which is subject to the claim of privilege, including, without limitation,
22 attorney-client privilege and attorney work-product privilege, which counsel and its
23 client hereby assert.

24 C. Defendant will make reasonable efforts to respond to every request to
25 the extent that it has not been objected to and to the extent that Defendant
26 understands the request. If plaintiff subsequently asserts an interpretation of a
27 request which differs from that given to it by Defendant, then Defendant reserves
28 the right to supplement its objections.

1 **RESPONSES TO REQUEST FOR PRODUCTION, SET ONE**

2 **REQUEST FOR PRODUCTION NO. 1:**

3 Any and all DOCUMENTS, REFERRING or RELATED TO any
4 PLAINTIFF.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 1:**

6 After a diligent search and reasonable inquiry, responding party is not in
7 possession, custody or control of any documents responsive to this request.
8 Discovery and investigation are continuing and responding party reserves the right
9 to amend this response at a later date.

10 **REQUEST FOR PRODUCTION NO. 2:**

11 Any and all DOCUMENTS, REFERRING or RELATED TO the incident that
12 occurred at Lunada Bay involving YOU and John MacHarg on February 1, 2016.

13 **RESPONSE TO REQUEST FOR PRODUCTION NO. 2:**

14 After a diligent search and reasonable inquiry, responding party is not in
15 possession, custody or control of any documents responsive to this request.
16 Discovery and investigation are continuing and responding party reserves the right
17 to amend this response at a later date.

18 **REQUEST FOR PRODUCTION NO. 3:**

19 Any and all DOCUMENTS, REFERRING or RELATED TO the incident that
20 occurred at Lunada Bay involving Sef Krell on or around November 15, 2014.

21 **RESPONSE TO REQUEST FOR PRODUCTION NO. 3:**

22 After a diligent search and reasonable inquiry, responding party is not in
23 possession, custody or control of any documents responsive to this request.
24 Discovery and investigation are continuing and responding party reserves the right
25 to amend this response at a later date.

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REQUEST FOR PRODUCTION NO. 4:

Any and all DOCUMENTS, REFERRING or RELATED TO a surfing event organized by Christ Taloa at Lunada Bay for Martin Luther King, Jr. Day that occurred at Lunada Bay on January 20, 2014.

RESPONSE TO REQUEST FOR PRODUCTION NO. 4:

Objection. Vague, ambiguous, overbroad. However, without waiving said objections: Defendant agrees to produce all non- privileged responsive documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 5:

Any and all DOCUMENTS, REFERRING or RELATED TO the incident that occurred at Lunada Bay involving Michel Rae Papayans and Christ Taloa on or around March 6, 2014.

RESPONSE TO REQUEST FOR PRODUCTION NO. 5:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 6:

Any and all DOCUMENTS, REFERRING or RELATED TO Christopher Taloa.

RESPONSE TO REQUEST FOR PRODUCTION NO. 6:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 7:

Any and all DOCUMENTS, REFERRING or RELATED TO the Aloha Point Facebook page.

RESPONSE TO REQUEST FOR PRODUCTION NO. 7:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 8:

Any and all DOCUMENTS, REFERRING or RELATED TO the ROCK FORT.

RESPONSE TO REQUEST FOR PRODUCTION NO. 8:

Objection. Vague, ambiguous, overbroad. However, without waiving said objections: Defendant agrees to produce all non- privileged responsive documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 9:

Any COMMUNICATION with PERSONS who are interested in protecting Lunada Bay from use by NON-LOCALS.

RESPONSE TO REQUEST FOR PRODUCTION NO. 9:

Objection. Vague, ambiguous, overbroad. However, without waiving said objections: Defendant agrees to produce all non- privileged responsive documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 10:

Any text messages with surfers who regularly surf, or have regularly surfed, Lunada Bay.

RESPONSE TO REQUEST FOR PRODUCTION NO. 10:

Objection. Vague, ambiguous, overbroad. Calls for legal conclusion. Premature as to facts of the case have yet to be presented. Unintelligible and nonsensical inasmuch as it seeks communications "with surfers who regularly surf."

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REQUEST FOR PRODUCTION NO. 11:

Any emails with surfers who regularly surf, or have regularly surfed, Lunada Bay.

RESPONSE TO REQUEST FOR PRODUCTION NO. 11:

Objection. Vague, ambiguous, overbroad. Calls for legal conclusion. Premature as to facts of the case have yet to be presented. Unintelligible and nonsensical inasmuch as it seeks communications "with surfers who regularly surf."

REQUEST FOR PRODUCTION NO. 12:

Any text messages or records of phone calls with a co-defendant in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 12:

Objection. Vague, ambiguous, overbroad. However, without waiving said objections: Defendant agrees to produce all non- privileged responsive documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 13:

Any emails to or from a co-defendant in this matter.

RESPONSE TO REQUEST FOR PRODUCTION NO. 13:

Objection. Vague, ambiguous, overbroad. However, without waiving said objections: Defendant agrees to produce all non- privileged responsive documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 14:

Any text messages or records of a phone call with Hank Harper.

RESPONSE TO REQUEST FOR PRODUCTION NO. 14:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

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1 **REQUEST FOR PRODUCTION NO. 15:**

2 Any emails to or from Hank Harper.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 15:**

4 After a diligent search and reasonable inquiry, responding party is not in
5 possession, custody or control of any documents responsive to this request.
6 Discovery and investigation are continuing and responding party reserves the right
7 to amend this response at a later date.

8 **REQUEST FOR PRODUCTION NO. 16:**

9 Any text messages or records of a phone call with Frank Ponce.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 16:**

11 After a diligent search and reasonable inquiry, responding party is not in
12 possession, custody or control of any documents responsive to this request.
13 Discovery and investigation are continuing and responding party reserves the right
14 to amend this response at a later date.

15 **REQUEST FOR PRODUCTION NO. 17:**

16 Any emails to or from Frank Ponce.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 17:**

18 After a diligent search and reasonable inquiry, responding party is not in
19 possession, custody or control of any documents responsive to this request.
20 Discovery and investigation are continuing and responding party reserves the right
21 to amend this response at a later date.

22 **REQUEST FOR PRODUCTION NO. 18:**

23 Any text messages or records of a phone call with David Melo.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 18:**

25 Objection. Vague, ambiguous, overbroad. However, without waiving said
26 objections: Defendant agrees to produce all non- privileged responsive documents in
27 its possession, custody, or control.

28 ///

REQUEST FOR PRODUCTION NO. 19:

Any emails to or from David Melo.

RESPONSE TO REQUEST FOR PRODUCTION NO. 19:

Objection. Vague, ambiguous, overbroad. However, without waiving said objections: Defendant agrees to produce all non- privileged responsive documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 20:

Any text messages or records of a phone call with Mark Griep.

RESPONSE TO REQUEST FOR PRODUCTION NO. 20:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 21:

Any emails to or from Mark Griep.

RESPONSE TO REQUEST FOR PRODUCTION NO. 21:

Objection. Vague, ambiguous, overbroad. However, without waiving said objections: Defendant agrees to produce all non- privileged responsive documents in its possession, custody, or control.

REQUEST FOR PRODUCTION NO. 22:

Any text messages or records of a phone call with Kelly Logan.

RESPONSE TO REQUEST FOR PRODUCTION NO. 22:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 23:

Any emails to or from Kelly Logan.

RESPONSE TO REQUEST FOR PRODUCTION NO. 23:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 24:

Any text messages or records of a phone call with Daniel Dreiling, Jr.

RESPONSE TO REQUEST FOR PRODUCTION NO. 24:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 25:

Any emails to or from Daniel Dreiling, Jr.

RESPONSE TO REQUEST FOR PRODUCTION NO. 25:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 26:

Any text messages or records of a phone call with Adam Dia.

RESPONSE TO REQUEST FOR PRODUCTION NO. 26:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 27:

Any emails to or from Adam Dia.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 27:**

2 After a diligent search and reasonable inquiry, responding party is not in
3 possession, custody or control of any documents responsive to this request.
4 Discovery and investigation are continuing and responding party reserves the right
5 to amend this response at a later date.

6 **REQUEST FOR PRODUCTION NO. 28:**

7 Any and all DOCUMENTS REFERENCING surfers who regularly surf at
8 Lunada Bay.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 28:**

10 Objection. Vague, ambiguous, overbroad. Calls for legal conclusion.
11 Premature as to facts of the case have yet to be presented. Unintelligible and
12 nonsensical inasmuch as it seeks communications "with surfers who regularly surf."

13 **REQUEST FOR PRODUCTION NO. 29:**

14 Any and all DOCUMENTS REFERRING or RELATED TO NON-LOCALS
15 at Lunada Bay.

16 **RESPONSE TO REQUEST FOR PRODUCTION NO. 29:**

17 Objection. Vague, ambiguous, overbroad. However, without waiving said
18 objections: Defendant agrees to produce all non- privileged responsive documents in
19 its possession, custody, or control.

20 **REQUEST FOR PRODUCTION NO. 30:**

21 Any COMMUNICATION with PERSONS who regularly surf at Lunada Bay,
22 or who are considered locals at Lunada Bay.

23 **RESPONSE TO REQUEST FOR PRODUCTION NO. 30:**

24 Objection. Vague, ambiguous, overbroad. Calls for legal conclusion.
25 Premature as to facts of the case have yet to be presented. Unintelligible and
26 nonsensical inasmuch as it seeks communication with persons "who regularly surf at
27 Lunada Bay."

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REQUEST FOR PRODUCTION NO. 31:

Your cell phone bills since January 1, 2013.

RESPONSE TO REQUEST FOR PRODUCTION NO. 31:

Defendant objects to this request to the extent it seeks information protected by fundamental federal and state and privacy principals, privileges, and laws. Defendant objects to the extent such documents are not reasonably calculated to lead to the discovery of admissible evidence.

REQUEST FOR PRODUCTION NO. 32:

Any and all DOCUMENTS, REFERRING or RELATED TO the Palos Verdes Estates Police Department.

RESPONSE TO REQUEST FOR PRODUCTION NO. 32:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 33:

Any and all DOCUMENTS REFERRING TO or RELATED TO the City of Palos Verdes Estates, including but not limited to, its current or former City Manager, current or former Mayor, current or former City Council, or current or former individual members of the City Council.

RESPONSE TO REQUEST FOR PRODUCTION NO. 33:

After a diligent search and reasonable inquiry, responding party is not in possession, custody or control of any documents responsive to this request. Discovery and investigation are continuing and responding party reserves the right to amend this response at a later date.

REQUEST FOR PRODUCTION NO. 34:

Any and all DOCUMENTS REFERRING or RELATED TO the City of Palos Verdes Estates Neighborhood Watch.

1 **RESPONSE TO REQUEST FOR PRODUCTION NO. 34:**

2 After a diligent search and reasonable inquiry, responding party is not in
3 possession, custody or control of any documents responsive to this request.
4 Discovery and investigation are continuing and responding party reserves the right
5 to amend this response at a later date.

6 **REQUEST FOR PRODUCTION NO. 35:**

7 Any and all DOCUMENTS REFERRING or RELATED TO the Palos
8 Verdes Homes Association.

9 **RESPONSE TO REQUEST FOR PRODUCTION NO. 35:**

10 After a diligent search and reasonable inquiry, responding party is not in
11 possession, custody or control of any documents responsive to this request.
12 Discovery and investigation are continuing and responding party reserves the right
13 to amend this response at a later date.

14 **REQUEST FOR PRODUCTION NO. 36:**

15 YOUR Homeowners Insurance Policy for all policy years from 2012 to
16 present.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 36:**

18 After a diligent search and reasonable inquiry, responding party is not in
19 possession, custody or control of any documents responsive to this request as he is
20 not a homeowner. Discovery and investigation are continuing and responding party
21 reserves the right to amend this response at a later date.

22 **REQUEST FOR PRODUCTION NO. 37:**

23 Any and all DOCUMENTS REFERRING or RELATED TO an incident
24 occurring at Lunada By on November 28, 2009 involving the Palos Verdes Estates
25 Police Department.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 37:**

27 After a diligent search and reasonable inquiry, responding party is not in
28 possession, custody or control of any documents responsive to this request.

1 Discovery and investigation are continuing and responding party reserves the right
2 to amend this response at a later date.

3 **REQUEST FOR PRODUCTION NO. 38:**

4 Any and all DOCUMENTS or COMMUNICATIONS REFERRING or
5 RELATED TO an undercover video recorded by reporters from The Guardian at
6 Lunada Bay in or around May 2015.

7 **RESPONSE TO REQUEST FOR PRODUCTION NO. 38:**

8 After a diligent search and reasonable inquiry, responding party is not in
9 possession, custody or control of any documents responsive to this request.
10 Discovery and investigation are continuing and responding party reserves the right
11 to amend this response at a later date.

12 **REQUEST FOR PRODUCTION NO. 39:**

13 Any text messages to or from Peter Babros.

14 **RESPONSE TO REQUEST FOR PRODUCTION NO. 39:**

15 Objection. Vague, ambiguous, overbroad. However, without waiving said
16 objections: Defendant agrees to produce all non- privileged responsive documents in
17 its possession, custody, or control.

18 **REQUEST FOR PRODUCTION NO. 40:**

19 Any emails to or from Peter Babros.

20 **RESPONSE TO REQUEST FOR PRODUCTION NO. 40:**

21 Objection. Vague, ambiguous, overbroad. However, without waiving said
22 objections: Defendant agrees to produce all non- privileged responsive documents in
23 its possession, custody, or control.

24 **REQUEST FOR PRODUCTION NO. 41:**

25 Any text messages to or from Joel Milam.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 41:**

27 After a diligent search and reasonable inquiry, responding party is not in
28 possession, custody or control of any documents responsive to this request.

1 Discovery and investigation are continuing and responding party reserves the right
2 to amend this response at a later date.

3 **REQUEST FOR PRODUCTION NO. 42:**

4 Any emails to or from Joel Milam.

5 **RESPONSE TO REQUEST FOR PRODUCTION NO. 42:**

6 After a diligent search and reasonable inquiry, responding party is not in
7 possession, custody or control of any documents responsive to this request.

8 Discovery and investigation are continuing and responding party reserves the right
9 to amend this response at a later date.

10 **REQUEST FOR PRODUCTION NO. 43:**

11 Any text messages to or from Joe Bark.

12 **RESPONSE TO REQUEST FOR PRODUCTION NO. 43:**

13 After a diligent search and reasonable inquiry, responding party is not in
14 possession, custody or control of any documents responsive to this request.

15 Discovery and investigation are continuing and responding party reserves the right
16 to amend this response at a later date.

17 **REQUEST FOR PRODUCTION NO. 44:**

18 Any emails to or from Joe Bark.

19 **RESPONSE TO REQUEST FOR PRODUCTION NO. 44:**

20 After a diligent search and reasonable inquiry, responding party is not in
21 possession, custody or control of any documents responsive to this request.

22 Discovery and investigation are continuing and responding party reserves the right
23 to amend this response at a later date.

24 **REQUEST FOR PRODUCTION NO. 45:**

25 Any text messages to or from Charles Thomas Mowatt.

26 **RESPONSE TO REQUEST FOR PRODUCTION NO. 45:**

27 Objection. Vague, ambiguous, overbroad. However, without waiving said
28 objections: Defendant agrees to produce all non- privileged responsive documents in

1 its possession, custody, or control.

2 **REQUEST FOR PRODUCTION NO. 46:**

3 Any emails to or from Charles Thomas Mowatt.

4 **RESPONSE TO REQUEST FOR PRODUCTION NO. 46:**

5 Objection. Vague, ambiguous, overbroad. However, without waiving said
6 objections: Defendant agrees to produce all non- privileged responsive documents in
7 its possession, custody, or control.

8 **REQUEST FOR PRODUCTION NO. 47:**

9 Any text messages to or from Fred Strater.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 47:**

11 After a diligent search and reasonable inquiry, responding party is not in
12 possession, custody or control of any documents responsive to this request.
13 Discovery and investigation are continuing and responding party reserves the right
14 to amend this response at a later date.

15 **REQUEST FOR PRODUCTION NO. 48:**

16 Any emails to or from Fred Strater.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 48:**

18 After a diligent search and reasonable inquiry, responding party is not in
19 possession, custody or control of any documents responsive to this request.
20 Discovery and investigation are continuing and responding party reserves the right
21 to amend this response at a later date.

22 **REQUEST FOR PRODUCTION NO. 49:**

23 Any text messages to or from Michael S. Papayans.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 49:**

25 After a diligent search and reasonable inquiry, responding party is not in
26 possession, custody or control of any documents responsive to this request.
27 Discovery and investigation are continuing and responding party reserves the right
28 to amend this response at a later date.

1 **REQUEST FOR PRODUCTION NO. 50:**

2 Any emails to or from Michael S. Papayans.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 50:**

4 After a diligent search and reasonable inquiry, responding party is not in
5 possession, custody or control of any documents responsive to this request.

6 Discovery and investigation are continuing and responding party reserves the right
7 to amend this response at a later date.

8 **REQUEST FOR PRODUCTION NO. 51:**

9 Any text messages to or from Jon Lund.

10 **RESPONSE TO REQUEST FOR PRODUCTION NO. 51:**

11 After a diligent search and reasonable inquiry, responding party is not in
12 possession, custody or control of any documents responsive to this request.

13 Discovery and investigation are continuing and responding party reserves the right
14 to amend this response at a later date.

15 **REQUEST FOR PRODUCTION NO. 52:**

16 Any emails to or from Jon Lund.

17 **RESPONSE TO REQUEST FOR PRODUCTION NO. 52:**

18 After a diligent search and reasonable inquiry, responding party is not in
19 possession, custody or control of any documents responsive to this request.

20 Discovery and investigation are continuing and responding party reserves the right
21 to amend this response at a later date.

22 **REQUEST FOR PRODUCTION NO. 53:**

23 Any text messages to or from David Hilton.

24 **RESPONSE TO REQUEST FOR PRODUCTION NO. 53:**

25 After a diligent search and reasonable inquiry, responding party is not in
26 possession, custody or control of any documents responsive to this request.

27 Discovery and investigation are continuing and responding party reserves the right
28 to amend this response at a later date.

1 **REQUEST FOR PRODUCTION NO. 54:**

2 Any emails to or from David Hilton.

3 **RESPONSE TO REQUEST FOR PRODUCTION NO. 54:**

4 After a diligent search and reasonable inquiry, responding party is not in
5 possession, custody or control of any documents responsive to this request.
6 Discovery and investigation are continuing and responding party reserves the right
7 to amend this response at a later date.

8
9 DATED: December 12, 2016

Respectfully submitted,

10 DANA ALDEN FOX
11 EDWARD EARL WARD JR.
12 ERIC Y. KIZIRIAN
13 LEWIS BRISBOIS BISGAARD & SMITH LLP

14
15 By: /s/ Edward E. Ward, Jr.
16 Edward E. Ward, Jr.
17 Attorneys for Defendant SANG LEE
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VERIFICATION

I, Sang Lee, declare:

I am a party to this action. The information necessary to prepare the responses to
PLAINTIFF CORY SPENCER'S FIRST SET OF REQUESTS FOR PRODUCTION TO
DEFENDANT SANG LEE includes facts personally known to me and matters which I believe
to be true, and the responses were prepared with advice and assistance of legal counsel.

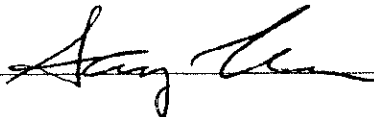
Accordingly, I rely on my own knowledge, and upon my attorneys and their agents for the
accuracy of some of the information stated in the responses, and on that basis, I am informed and
believe that the matters stated herein are true and correct.

I declare under penalty of perjury under the laws of California that the foregoing are true
and correct.

Executed on December 9, 2016, in Rancho Palos Verdes California,

Sang Lee

Print Name



Signature

CALIFORNIA STATE COURT PROOF OF SERVICE

CORY SPENCER v LUNADA BAY BOYS - Case No. 24659-869 (Updated
11/15/16)

STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

At the time of service, I was over 18 years of age and not a party to the action.
My business address is 633 West 5th Street, Suite 4000, Los Angeles, CA 90071.

On December 2, 2016, I served the following document(s): RESPONSES
OF DEFENDANT SANG LEE TO CORY SPENCER'S REQUESTS FOR
PRODUCTION OF DOCUMENTS, SET ONE

I served the documents on the following persons at the following addresses
(including fax numbers and e-mail addresses, if applicable):

SEE ATTACHED SERVICE LIST

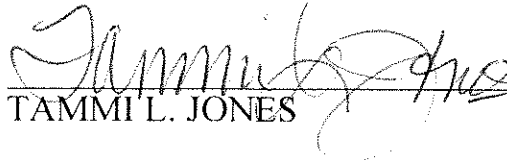
The documents were served by the following means:

☒ (BY OVERNIGHT DELIVERY) I enclosed the documents in an envelope or
package provided by an overnight delivery carrier and addressed to the
persons at the addresses listed above. I placed the envelope or package for
collection and delivery at an office or a regularly utilized drop box of the
overnight delivery carrier.

☒ (BY E-MAIL OR ELECTRONIC TRANSMISSION) Based on a court order
or an agreement of the parties to accept service by e-mail or electronic
transmission, I caused the documents to be sent from e-mail address
tammi.jones@lewisbrisbois.com to the persons at the e-mail addresses listed
above. I did not receive, within a reasonable time after the transmission, any
electronic message or other indication that the transmission was unsuccessful.

I declare under penalty of perjury under the laws of the State of California
that the foregoing is true and correct.

Executed on December 2, 2016, at Los Angeles, California.


TAMMI L. JONES

SERVICE LIST
CORY SPENCER v LUNADA BAY BOYS
24659-869 (Updated 11/15/16)

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EXHIBIT 8



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ASSOCIATE
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DIRECT FAX (415) 995-3413
E-MAIL jfoldvary@hansonbridgett.com

December 20, 2016

VIA E-MAIL AND U.S. MAIL

Tera Lutz
Lewis Brisbois Bisgaard & Smith LLP
633 West 5th Street, Suite 4000
Los Angeles, California 90071
tera.lutz@lewisbrisbois.com

Re: *Spencer, et al. v. Lunada Bay Boys, et al.*

Dear Ms. Lutz:

Plaintiff Cory Spencer ("Plaintiff") is in receipt of Defendant Sang Lee's Responses to Plaintiff's Requests for Production of Documents, Set One, and the accompanying production bearing Bates labels Lee 00000001 through 000000596, served on December 12, 2016. I write to meet and confer regarding the deficiency of the responses and production, and to demand supplemental responses and production of responsive documents.

Deficient Responses

Failure to State Whether Mr. Lee Is In Possession of Documents

Mr. Lee's responses to Request Nos. 10, 11, 28, 30, and 31 fail to state whether inspection of responsive documents will be permitted, as required by Fed. R. Civ. P. 34(b)(2)(B). Please supplement Mr. Lee's responses to these Requests to reflect whether he is in possession of responsive documents.

"Surfers Who Regularly" Surf Lunada Bay

Mr. Lee objects to Request Nos. 10, 11, 28, and 30 on the grounds that the phrase "surfers who regularly surf" at Lunada Bay is unintelligible. Taken in context, and with a basic understanding of grammar conventions, it is clear that these requests seek documents regarding surfers who surf *at Lunada Bay* on a regular basis, not merely surfers who surf anywhere on a regular basis. Please supplement Mr. Lee's responses and production to reflect this understanding.

Calls for Legal Conclusion

In response to Request Nos. 10, 11, 28, and 30, Mr. Lee further objects on the grounds that these Requests "call for a legal conclusion." Plaintiff is unclear which portions of these requests seek a legal conclusion, and refuses to speculate as to the basis of Mr. Lee's objection. Please

Tera Lutz
December 20, 2016
Page 2

supplement Mr. Lee's responses to identify the legal conclusion he believes is contained within these Requests.

Premature

Mr. Lee further objects to Request Nos. 10, 11, 28, and 30 on the grounds that these Requests are "premature as to [*sic*] facts of the case have yet to be presented." This objection is baseless. Parties may seek any information which is relevant and is reasonably calculated to lead to the discovery of admissible evidence. Fed. R. Civ. P. 26(b)(2); *Hickman v. Taylor*, 329 U.S. 495, 507 (1947). Rule 26 has been broadly construed to "encompass any matter that bears on, or that reasonably could lead to other matter that could bear on, any issue that is or may be in the case." *Oppenheimer Fund, Inc. v. Sanders*, 437 U.S. 340, 351 (citing *Hickman*, 329 U.S. at 501). These requests seek documents that are relevant to Plaintiff's claims and are reasonably calculated to lead to the discovery of admissible evidence because they relate to Lunada Bay surfers. Thus, Mr. Lee cannot withhold responsive documents based on this improper objection.

Privacy and Privilege

In response to Request No. 31, Mr. Lee improperly objected to Plaintiff's request for Mr. Lee's cell phone bills since January 1, 2013, on the grounds that the Request "seeks information protected by fundamental federal and state privacy principals, privileges, and laws." Mr. Lee cannot claim a generalized privacy interest in his phone records. He is a named Defendant in this lawsuit and his correspondence with other Defendants is germane to Plaintiff's claims of their unlawful exclusion and intimidation at Lunada Bay. Further, any attorney-client privileged communications Mr. Lee had with his counsel would not be reflected on his cell phone bills, since the bills would, at most, reflect that calls occurred and would not reveal the content of such calls. Please cite legal authority for these privacy objections or produce the records.

Vague, Ambiguous, Overbroad

Mr. Lee further objects to Request Nos. 4, 8, 9, 10, 11, 12, 13, 18, 19, 21, 28, 29, 30, 39, 40, 45, and 46 on the grounds that these Requests are "vague, ambiguous, and overbroad." However, Mr. Lee did not specify the basis for such objections. Please identify which terms you believe are vague and ambiguous and how these Requests are overbroad so that we may consider amending these Requests.

Deficient Production

Improper Format

The format of Mr. Lee's production violates Fed. R. Civ. P. 34(b)(2)(E). Mr. Lee's production was comprised of only PDFs despite the fact that it contained electronic records. Parties must produce documents in the format that the requesting party specifies. *Id.*; see also *U.S. ex rel. Carter v. Bridgepoint Educ., Inc.*, 305 F.R.D. 225, 244 (S.D. Cal. 2015) ("[i]t is only if the requesting party declines to specify a form that the producing party is offered a choice between

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December 20, 2016
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producing in the form in which it is ordinary maintained—native format—or in a reasonably useful form or form”).

Here, the instructions to the Requests specify that “[e]lectronic mail (“email” and text messages) shall be produced in TIFF format embedded with Bates numbers along with load files for Concordance Software containing the email text and metadata.” Accordingly, please produce Lee 00000001 through 000000596 in TIFF format with Concordance load files containing both text and metadata.

Missing Documents

Plaintiff has reason to believe that Mr. Lee has in his possession text messages, email exchanges, and voicemails with and from several of the Lunada Bay Boys and other named Defendants that would be responsive to Plaintiff’s Requests. Mr. Lee must produce all documents – including but not limited to text messages, emails, and voicemails – that are responsive to Plaintiff’s Requests. If Mr. Lee does not provide all such documents, Plaintiff is entitled to search his phone for this data.

Privilege Log

The production contains several redactions throughout the Extraction Report of Mr. Lee’s iPhone (Lee 00000029 – 590), as well as in emails Bates labeled Lee 00000005 and 00000007. However, Mr. Lee did not provide a privilege log. As you are aware, parties withholding documents as privileged should identify and describe the documents in sufficient detail to enable the demanding party to assess the applicability of the privilege or protection. Fed. R. Civ. P. 26(b)(5). Please provide a privilege log or produce non-redacted versions of the above-referenced documents.

* * * * *

The Federal Rules impose an obligation to supplement or correct prior disclosures or discovery “if the party learns that in some material respect the disclosure or response is incomplete or incorrect.” Fed. R. Civ. P. 26(e)(1)(A). We anticipate that additional documents and responses will be forthcoming in light of the issues raised in this letter.

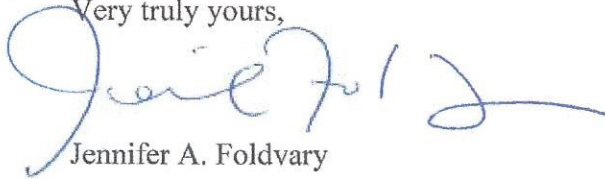
We also expect that Mr. Lee was informed of his obligation to preserve evidence at the outset of this litigation and therefore is in possession of the above-referenced responsive information. To the extent he was not informed of his preservation obligations, or he has failed to preserve relevant evidence, we will seek redress from the court in the form of sanctions, including but not limited to adverse inferences, the exclusion of evidence, and costs.

We demand that Mr. Lee produce responsive documents and provide supplemental responses on or before **Friday, December 30, 2016**. If he fails to produce any further responsive documents

Tera Lutz
December 20, 2016
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by this date, please be available to meet and confer the week of January 5, 2017, in advance of Plaintiff's anticipated motion to compel.

Very truly yours,

A handwritten signature in blue ink, appearing to read "Jennifer A. Foldvary", with a stylized flourish at the end.

cc: Kurt Franklin
Victor Otten
Samantha Wolff

EXHIBIT 9

OTTEN LAW, PC

ATTORNEYS

May 25, 2017

Via Regular Mail and Electronic Mail

Dana Alden Fox, Dana.Fox@lewisbrisbois.com
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Daniel M. Crowley, dmcrowley@boothmitchel.com
BOOTH MITCHEL & STRANGE
707 Wilshire Boulevard, Suite 4450
Los Angeles, CA 90017

Re: Cory Spencer, et al. vs. Lunada Bay Boys, et al.
Case No. 2:16-cv-02129-SJO-RAO

Dear Counsel:

This is in follow-up to the meeting on Wednesday, February 1, 2017 at the offices of Otten Law, PC between myself on behalf of the Plaintiffs, and Tera Lutz of Lewis Brisbois Bisgaard & Smith and Daniel Crowley of Booth Mitchel & Strange on behalf of Defendant Sang Lee. While originally, I believed that our meet and confer was conducted in good faith, my belief has been challenged by what appears to be efforts on the part of Mr. Lee to withhold relevant evidence. As Mr. Lee's deposition is scheduled for May 31, 2017, this is extremely troubling and problematic.

On December 12, 2016, Defendant Sang Lee served responses to Plaintiff's first set of document requests and the accompanying production bearing Bates labels Lee 000000001 through 00000596. On December 20, 2016, co-counsel for Plaintiffs sent a meet and confer letter demanding supplemental responses and production of responsive documents, as well as a privilege log. On December 29, 2016, defense counsel provided a privilege log. On January 24, 2017, I followed up with a letter detailing the deficiencies of Mr. Lee's responses and requested that we meet and confer in person.

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Edward Earl Ward Jr.
Eric Y. Kizirian
Tera A. Lutz
LEWIS BRISBOIS BISGAARD & SMITH
Daniel M. Crowley
BOOTH MITCHEL & STRANGE
May 25, 2017
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At the February 1, 2017 meeting, I conveyed our concerns with Mr. Lee's discovery responses. Specifically, we reviewed and discussed the Extraction Report created by Precision Discovery (Lee 00000029) This report shows the redactions for documents bearing Bates labels Lee 000001 – Lee 00000590. Information from the Extraction Report reveals:

1. Calendar Entries found in documents Lee 00000030 to Lee 00000033 are redacted with no explanation.
2. Regarding the Call Logs:
 - a. Lee 00000036 to Lee 00000039 – are almost entirely redacted.
 - b. Lee 00000041 to Lee 00000131 – are almost entirely redacted.
3. Regarding the User Directory:
 - a. Lee 00000132 to Lee 00000216 are completely redacted.
 - b. Lee 00000217 to Lee 00000239 contain only one entry.
4. Regarding SMS Data:
 - a. Lee 00000245 items 2212 to 2215 indicate SMS messages to Alan Johnston and Charlie Ferrara on June 30, 2016 but the text messages have not been provided.
 - b. Lee 00000246 items 2252 to 2252 indicted SMS messages to Charlie Ferrara on July 20, 2016 but the text messages have not been provided.
 - c. Lee 00000246 to Lee 00000499 are totally redacted.
 - d. Lee 0000500 to Lee 0000590 contain virtually nothing usable.

We objected to the privilege log primarily on two grounds. First, there was not enough information available to determine if there was a legal basis to withhold or redact the documents. Second, the privacy rights claimed on redacted documents are not recognizable grounds for claiming a privilege. You asserted that calls made to and received from individuals unrelated to this lawsuit are not required to be produced in the discovery process, but agreed to provide Defendant Sang Lee's phone bills for the last three years. You also agreed to update the privilege log.

While the Plaintiffs were eventually provided with copies of Me. Lee's phone bills, they were never provided an updated privilege log or revised Extraction Report. The phone records, however, reveal enough information to confirm what we always suspected- that Mr. Lee's objections, claims of privilege and withholding of documents are without merit.

The Call and Text logs describe incoming and outgoing communications that cover various date ranges rather than specific dates. At the same time, the privilege log is not specific regarding the people involved or the nature of the communications. Many of the log entries simply state they

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are from “Individuals unrelated to this lawsuit” to Sang Lee. The following chart contains a small sample of the log entries and a brief response as to why they are improper:

BATES NO.	DOCUMENT DESCRIPTION	FROM	TO	PRIVILEGE CLAIMED	RESPONSE
Lee 0000005 & Lee 0000007	02/24/2014- Personal Communication with Friend	Bruce Turner	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	Bruce Turner has surfed Lunada Bay for many years. He is seen in the Danny Day videos turned over by Plaintiffs.
Lee 0000031- Lee 0000035	Sang Lee's iPhone calendar- personal dates including birthdays and religious holidays	N/A	N/A	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness.
Lee 0000036, Lee 0000038	Call Log-incoming and outgoing calls on 8/18/16 and 8/17/16 4/27/16; 4/15/16; 3/24/16; 2/22/16;	Unidentified Caller	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness.
Lee 0000039	Call Log-incoming and outgoing calls on 2/21/16; 2/20/16; 2/12/16; 1/29/16	Unidentified Caller	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness. The fact that 1/29/16 is the day that Mr. Lee was involved in an altercation with John McHarg and Ms. Reed was accosted by David Melo and several others, the objections are highly questionable.
Lee 0000040	Call Log-incoming and outgoing calls on 1/29/16.	Brant B. Individuals unrelated to this suit.	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	To claim calls are from individuals unrelated to this lawsuit is outrageous. We

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					know there were calls with Joe Bark, Charlie Beukema, Charlie Mowat, Sean Van Dine, Evan Levy, David Melo, Paul Hugoboom, and Brad Ring. These are all Lunada Bay locals.
Lee 0000109	Text Message Log- incoming and outgoing text messages from 3/30/16- 26 4/12/16	Brant B. Franky Ferrara Individuals unrelated to this suit.	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness. We know there were texts with Douglas Kinion, Michael Erik Lamers, Carlos Anora. These are all Lunada Bay locals.
Lee 0000114	Text Message Log- incoming and outgoing text messages from 1/28/16- 2/10/16	Peter Babros. Individuals unrelated to this suit.	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness. On 1/29/16- the day Sang Lee poured a beer on John McHarg and the day Ms. Reed was accosted by David Melo, there were over 50 text messages which

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May 25, 2017
Page | 5

					you have redacted. We know there were texts with Charlie Beukema, David Melo, Brad Ring.
--	--	--	--	--	--

The purpose of a privilege log is to provide enough information to make a determination if the information being sought is related, which means you have to provide the names of the people calling/texting/emailing. “The requisite detail for inclusion in a privilege log consist of [1] a description of responsive material withheld, [2] the identity and position of its author, [3] the date it was written, [4] the identity and position of all addressees and recipients, [5] the material’s present location, [6] and specific reasons for its being withheld, including the privilege invoked and the grounds thereof.” (*Friends of Hope Valley v. Frederick Co.* (ED CA 2010) 268 FRD 643, 650-651). In short, Mr. Lee's privilege log fails to comply with the Federal Rules.

2. Privacy.

Federal courts generally recognize a right of privacy that can be raised in response to discovery requests. (*Johnson by Johnson v. Thompson* (10th Cir. 1992) 971 F2d 1487, 1497; *DeMasi v. Weiss* (3rd Cir. 1982) 669 F2d 114, 119-120). Unlike a privilege, the right of privacy is not an absolute bar to discovery. Rather, courts balance the need for the information against the claimed privacy right. (*Stallworth v. Brollini* (ND CA 2012) 288 FRD 439, 444 (federal right of privacy); *West Bay One, Inc. v. Does 1-1,653* (D DC 2010) 270 FRD 13, 15-16; *Shaw v. Experian Information Solutions, Inc.* (SD CA 2015) 306 FRD 293, 301). Courts consider various factors in performing the balancing analysis, including “(1) the type of information requested, (2) the potential for harm in any subsequent non-consensual disclosure, (3) the adequacy of safeguards to prevent unauthorized disclosure, (4) the degree of need for access, and (5) whether there is an express statutory mandate, articulated public policy, or other recognizable public interest militating toward access.” (See *Seaton v. Mayberg* (9th Cir. 2010) 610 F3d 530, 539, 541, fn. 47).

Any purported concerns with respect to infringing an individual's right to privacy in this matter are particularly diminished by the Court's issuance of a protective order. Any information that Mr. Lee contends would implicate an individual's privacy right could be appropriately identified and protected pursuant to the terms of the protective order, to which all parties to this lawsuit agreed to be bound. (See Dkt. No. 241.)

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Eric Y. Kizirian
Tera A. Lutz
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As Mr. Lee's deposition is scheduled for May 31, 2017, we need confirmation that you will provide further responses to Plaintiffs discovery request by close of business today and that you provide copies of the text messages Bates Lee 0000102 to Lee 0000132 set forth in the Privilege Log and any other responsive documents by close of business on May 26, 2017. If we do not receive confirmation that you agree to this, we will set a hearing on a motion to compel.

I look forward to hearing from you soon.

Very truly yours,

OTTEN LAW, PC

Victor Otten, Esq.

Cc: Kurt Franklin, Esq. (kfranklin@hansonbridgett.com)
Samantha Wolff (SWolff@hansonbridgett.com)

EXHIBIT 10



Tera A. Lutz
633 West 5th Street, Suite 4000
Los Angeles, California 90071
Tera.Lutz@lewisbrisbois.com
Direct: 213.680.5004

MAY 30 2017

May 26, 2017

24659.869

VIA E-MAIL AND U.S. MAIL

Victor Otten
3620 Pacific Coast Highway
Suite 100
Torrance, CA 90505
vic@ottenlawpc.com

Re: Spencer, et al. v. Lunada Bay Boys, et al.

Dear Mr. Otten:

I attempted to reach you via phone today but was informed by your assistant that you were out of the office for the day, I would like to address several issues as outlined in your meet and confer letter dated May 25, 2017.

Plaintiffs allege Lee0000245 items 2212 to 2215 indicate SMS messages to Alan Johnston and Charlie Ferrara on June 30, 2016 "but the text messages have not been provided." Plaintiffs also allege that Lee 00000246 items 2252 to 2252 indicate SMS messages to Charlie Ferrara on July 20, 2016 "but the text messages have not been provided." As discussed during our in person meet and confer on February 1, 2017, nearly four months ago, none of the very limited number of text messages from or to the named defendants were recoverable from Mr. Lee's cell phone. Our forensic team was only able to determine whether a text message was sent or received from these individuals and could not recover the substance of the message itself because the texts were either too old and/or the data on the phone was outdated.

Plaintiffs also seek to be provided a copy of text messages on bates Lee 0000102 to Lee 0000132. Again, substantive text messages from named defendants and named parties requested by plaintiffs were unable to be recovered by the forensic team because the texts were either too old and/or the data on the phone was outdated. A significant portion of the documents are redacted because there are very limited text messages exchanged between Mr. Lee and named defendants. Redacted messages are between Mr. Lee and family members and friends unrelated to this mater.

Victor Otten
May 25, 2017
Page 2

Further, the privilege log cannot be more specific without identifying the names and phone numbers of family members and friends of Sang Lee that are irrelevant to this action.

Very truly yours,

Tera A. Lutz

Tera A. Lutz for
LEWIS BRISBOIS BISGAARD & SMITH LLP

TAL

Cc: Kurt Franklin (kfranklin@hansonbridgett.com)
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LEWIS BRISBOIS BISGAARD & SMITH LLP
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EXHIBIT 11

Atkinson-Baker Court Reporters
www.depo.com

1 UNITED STATES DISTRICT COURT
2 CENTRAL DISTRICT OF CALIFORNIA
3 WESTERN DIVISION
4 - - -

5 CORY SPENCER, AN INDIVIDUAL;)
6 DIANA MILENA REED, AN)
7 INDIVIDUAL; AND COASTAL)
8 PROTECTION RANGERS, INC.,)
9 A CALIFORNIA NON-PROFIT PUBLIC)
10 BENEFIT CORPORATION,)

11 Plaintiffs,)

12 vs.)

13 No.: 2:16-cv-02129-SJO
14 (RAOx)

15 LUNADA BAY BOYS; THE INDIVIDUAL)
16 MEMBERS OF THE LUNADA BAY BOYS,)
17 INCLUDING BUT NOT LIMITED TO)
18 SANG LEE, BRANT BLAKEMAN, ALAN)
19 JOHNSTON AKA JALIAN JOHNSTON,)
20 MICHAEL RAE PAPAYANS, ANGELO)
21 FERRARA, FRANK FERRARA,)
22 CHARLIE FERRARA, ET AL.,)

23 Defendants.)
24 - - - - -)

25 VIDEOTAPED DEPOSITION OF

SANG LEE

COSTA MESA, CALIFORNIA

MAY 31, 2017

Atkinson-Baker, Inc.
Court Reporters
www.depo.com
(800) 288-3376

REPORTED BY: ANGELIQUE MELODY FERRIO, CSR NO. 6979

FILE NO: AB05A10

Atkinson-Baker Court Reporters
www.depo.com

1	A. I just didn't erase it. It's all there, so.	09:21:44
2	Q. When you say it's all there, where do you	09:21:48
3	mean?	09:21:52
4	A. It's in my E-Mail and my phones. I never	09:21:52
5	tried to, you know.	09:21:55
6	Q. Okay. And so do you have the same phone that	09:21:57
7	you had when you first got served?	09:22:02
8	A. Yes.	09:22:05
9	Q. Did you ever do anything to download or image	09:22:06
10	the E-Mails that had on your phone related to this	09:22:24
11	case?	09:22:27
12	MR. CROWLEY: Objection, that it's vague and	09:22:27
13	ambiguous. You can answer to the extent that you	09:22:28
14	know.	09:22:31
15	THE WITNESS: Well, no, I don't believe so,	09:22:31
16	no.	09:22:33
17	BY MS. POOLEY:	09:22:33
18	Q. You did not?	09:22:34
19	A. Download any E-Mails?	09:22:34
20	Q. Did you do anything to download or image any	09:22:37
21	E-Mails or other information on your phone that might	09:22:44
22	be related to this case?	09:22:47
23	MR. CROWLEY: Are you asking did he	09:22:48
24	personally because that's the issue that I think is	09:22:50
25	vague and ambiguous about the question.	09:22:52

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www.depo.com

1	A. I just didn't erase it. It's all there, so.	09:21:44
2	Q. When you say it's all there, where do you	09:21:48
3	mean?	09:21:52
4	A. It's in my E-Mail and my phones. I never	09:21:52
5	tried to, you know.	09:21:55
6	Q. Okay. And so do you have the same phone that	09:21:57
7	you had when you first got served?	09:22:02
8	A. Yes.	09:22:05
9	Q. Did you ever do anything to download or image	09:22:06
10	the E-Mails that had on your phone related to this	09:22:24
11	case?	09:22:27
12	MR. CROWLEY: Objection, that it's vague and	09:22:27
13	ambiguous. You can answer to the extent that you	09:22:28
14	know.	09:22:31
15	THE WITNESS: Well, no, I don't believe so,	09:22:31
16	no.	09:22:33
17	BY MS. POOLEY:	09:22:33
18	Q. You did not?	09:22:34
19	A. Download any E-Mails?	09:22:34
20	Q. Did you do anything to download or image any	09:22:37
21	E-Mails or other information on your phone that might	09:22:44
22	be related to this case?	09:22:47
23	MR. CROWLEY: Are you asking did he	09:22:48
24	personally because that's the issue that I think is	09:22:50
25	vague and ambiguous about the question.	09:22:52

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1	BY MS. POOLEY:	09:20:23
2	Q. That's fine.	09:20:24
3	When did you retain your lawyer?	09:20:26
4	A. I don't even know. It was probably within a	09:20:28
5	month after I got served.	09:20:35
6	Q. So, and is that then, within a month of when	09:20:37
7	you got served, when you came to the understanding	09:20:42
8	that you had an obligation to preserve evidence	09:20:46
9	related to this matter?	09:20:49
10	A. What was it?	09:20:52
11	Q. Was it within a month of when you got served	09:20:52
12	that you first came to an understanding that you	09:20:55
13	needed to preserve evidence related to this matter?	09:20:58
14	A. I don't know if it was a month. It was just	09:21:01
15	after when I met with my lawyers they told me so.	09:21:04
16	Q. Again, I'm not interested in communications	09:21:09
17	between you and your lawyer.	09:21:11
18	A. But I don't know the time exactly, so, that's	09:21:13
19	why I'm telling you.	09:21:16
20	Q. Okay. After you became aware that you had an	09:21:17
21	obligation to preserve evidence related to this case,	09:21:24
22	did you take any steps to preserve evidence?	09:21:26
23	A. Did I take any steps?	09:21:32
24	Q. Yes. Did you do anything to make sure that	09:21:34
25	any evidence that you had wasn't lost or destroyed?	09:21:39

EXHIBIT 12

OTTEN LAW, PC

ATTORNEYS

July 4, 2017

Via Regular Mail and Electronic Mail

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Re: Cory Spencer, et al. vs. Lunada Bay Boys, et al.
Case No. 2:16-cv-02129-SJO-RAO

Dear Counsel:

This is in follow-up to the letter dated May 26, 2017 from Tara Lutz regarding our continuing discovery dispute. As you have stated an intention to file a motion for summary judgement, this will be our last attempt to resolve this matter informally. Moreover, should you file a motion for summary judgement without providing adequate discovery responses, that will be a basis to oppose the motion.

Your letter states:

Plaintiffs allege Lee0000245 items 2212 to 2215 indicate SMS messages to Alan Johnston and Charlie Ferrara on June 30, 2016 “but the text messages have not been provided.” Plaintiffs also allege that Lee 00000246 items 2252 to 2252 indicate SMS messages to Charlie Ferrara on July 20, 2016 “but the text messages have not been provided.” As discussed during our in person meet and confer on February 1, 2017, nearly four months ago, none of the very limited number of text messages from or to the named defendants were recoverable from Mr. Lee’s cell phone. Our forensic team was only able to determine whether a text message was sent or received from these individuals and could not recover the substance of the message

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itself because the texts were either too old and/or the data on the phone was outdated.

If the text messages do not exist, why are they included on a privilege log? Your privilege log states:

BATES NO.	DOCUMENT DESCRIPTION	FROM	TO	PRIVILEGE CLAIMED	EXTRACTION REPORT
Lee 0000245	Call Log-incoming and outgoing phone calls and text messages 6/20/16- 7/6/16	Sang Lee Individuals unrelated to this suit	Alan Johnston Charley Ferrara Individuals unrelated to this suit	Privacy. Information nonresponsive	Shows that these were not deleted.
Lee 0000246	Call Log-incoming and outgoing phone calls and text messages 7/6/16 – 7/20/16	Sang Lee Individuals unrelated to this suit	Charley Ferrara Individuals unrelated to this suit	Privacy. Information nonresponsive	Show that these were not deleted.

Your privilege fails in the document description. You cannot lump text messages spanning time (6/20/16- 7/6/16), you need to set forth which date each communication took place. You also fail to describe the nature of the communication.

Your correspondence also states:

Plaintiffs also seek to be provided a copy of text messages on bates Lee 0000102 to Lee 0000132. Again, substantive text messages from named defendants and named parties requested by plaintiffs were unable to be recovered by the forensic team because the texts were either too old and/or the data on the phone was outdated. A significant portion of the documents are redacted because there are very limited text messages exchanged

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between Mr. Lee and named defendants. Redacted messages are between Mr. Lee and family members and friends unrelated to this matter.

Further, the privilege log cannot be more specific without identifying the names and phone numbers of family members and friends of Sang Lee that are irrelevant to this action.

Again, if the text messages do not exist, why are they included on a privilege log? Moreover, it is not clear what you mean by “substantive text messages.” Finally, relevancy is not a privilege or a basis to withhold a document. Also, the names of family members and friends is not privileged.

We stand by the positions set forth in previous meet and confers:

On December 12, 2016, Defendant Sang Lee served responses to Plaintiff’s first set of document requests and the accompanying production bearing Bates labels Lee 00000001 through 00000596. On December 20, 2016, co-counsel for Plaintiffs sent a meet and confer letter demanding supplemental responses and production of responsive documents, as well as a privilege log. On December 29, 2016, defense counsel provided a privilege log. On January 24, 2017, I followed up with a letter detailing the deficiencies of Mr. Lee’s responses and requested that we meet and confer in person.

At the February 1, 2017 meeting, I conveyed our concerns with Mr. Lee’s discovery responses. Specifically, we reviewed and discussed the Extraction Report created by Precision Discovery (Lee 00000029) This report shows the redactions for documents bearing Bates labels Lee 000001 – Lee 00000590. Information from the Extraction Report reveals:

1. Calendar Entries found in documents Lee 00000030 to Lee 00000033 are redacted with no explanation.
2. Regarding the Call Logs:
 - a. Lee 0000036 to Lee 0000039 – are almost entirely redacted.
 - b. Lee 0000041 to Lee 0000131 – are almost entirely redacted.
3. Regarding the User Directory:
 - a. Lee 00000132 to Lee 00000216 are completely redacted.
 - b. Lee 00000217 to Lee 00000239 contain only one entry.
4. Regarding SMS Data:
 - a. Lee 0000245 items 2212 to 2215 indicate SMS messages to Alan Johnston and Charlie Ferrara on June 30, 2016 but the text messages have not been provided.

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- b. Lee 00000246 items 2252 to 2252 indicted SMS messages to Charlie Ferrara on July 20, 2016 but the text messages have not been provided.
- c. Lee 00000246 to Lee 00000499 are totally redacted.
- d. Lee 0000500 to Lee 0000590 contain virtually nothing usable.

We objected to the privilege log primarily on two grounds. First, there was not enough information available to determine if there was a legal basis to withhold or redact the documents. Second, the privacy rights claimed on redacted documents are not recognizable grounds for claiming a privilege. You asserted that calls made to and received from individuals unrelated to this lawsuit are not required to be produced in the discovery process, but agreed to provide Defendant Sang Lee's phone bills for the last three years. You also agreed to update the privilege log.

While the Plaintiffs were eventually provided with copies of Me. Lee's phone bills, they were never provided an updated privilege log or revised Extraction Report. The phone records, however, reveal enough information to confirm what we always suspected- that Mr. Lee's objections, claims of privilege and withholding of documents are without merit.

The Call and Text logs describe incoming and outgoing communications that cover various date ranges rather than specific dates. At the same time, the privilege log is not specific regarding the people involved or the nature of the communications. Many of the log entries simply state they are from "Individuals unrelated to this lawsuit" to Sang Lee. The following chart contains a small sample of the log entries and a brief response as to why they are improper:

BATES NO.	DOCUMENT DESCRIPTION	FROM	TO	PRIVILEGE CLAIMED	RESPONSE
Lee 0000005 & Lee 0000007	02/24/2014- Personal Communication with Friend	Bruce Turner	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	Bruce Turner has surfed Lunada Bay for many years. He is seen in the Danny Day videos turned over by Plaintiffs.
Lee 0000031- Lee 0000035	Sang Lee's iPhone calendar- personal dates including birthdays and religious holidays	N/A	N/A	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness.
Lee 0000036, Lee 0000038	Call Log-incoming and outgoing calls on 8/18/16 and 8/17/16 4/27/16;	Unidentified Caller	Sang Lee	Privacy. Information nonresponsive	You have not provided enough information to substantiate a

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	4/15/16; 3/24/16; 2/22/16;			to the request was redacted.	privacy objection or determine responsiveness.
Lee 0000039	Call Log-incoming and outgoing calls on 2/21/16; 2/20/16; 2/12/16; 1/29/16	Unidentified Caller	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness. The fact that 1/29/16 is the day that Mr. Lee was involved in an altercation with John McHarg and Ms. Reed was accosted by David Melo and several others, the objections are highly questionable.
Lee 0000040	Call Log-incoming and outgoing calls on 1/29/16.	Brant B. Individuals unrelated to this suit.	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	To claim calls are from individuals unrelated to this lawsuit is outrageous. We know there were calls with Joe Bark, Charlie Beukema, Charlie Mowat, Sean Van Dine, Evan Levy, David Melo, Paul Hugoboom, and Brad Ring. These are all Lunada Bay locals.
Lee 0000109	Text Message Log- incoming and outgoing text messages from 3/30/16- 26 4/12/16	Brant B. Franky Ferrara Individuals unrelated to this suit.	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness. We know there were texts with

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					Douglas Kinion, Michael Erik Lamers, Carlos Anora. These are all Lunada Bay locals.
Lee 0000114	Text Message Log- incoming and outgoing text messages from 1/28/16- 2/10/16	Peter Babros. Individuals unrelated to this suit.	Sang Lee	Privacy. Information nonresponsive to the request was redacted.	You have not provided enough information to substantiate a privacy objection or determine responsiveness. On 1/29/16- the day Sang Lee poured a beer on John McHarg and the day Ms. Reed was accosted by David Melo, there were over 50 text messages which you have redacted. We know there were texts with Charlie Beukema, David Melo, Brad Ring.

The purpose of a privilege log is to provide enough information to make a determination if the information being sought is related, which means you have to provide the names of the people calling/texting/emailing. “The requisite detail for inclusion in a privilege log consist of [1] a description of responsive material withheld, [2] the identity and position of its author, [3] the date it was written, [4] the identity and position of all addressees and recipients, [5] the material’s present location, [6] and specific reasons for its being withheld, including the privilege invoked and the grounds thereof.” (*Friends of Hope Valley v. Frederick Co.* (ED CA 2010) 268 FRD 643, 650-651). In short, Mr. Lee's privilege log fails to comply with the Federal Rules.

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2. Privacy.

Federal courts generally recognize a right of privacy that can be raised in response to discovery requests. (*Johnson by Johnson v. Thompson* (10th Cir. 1992) 971 F2d 1487, 1497; *DeMasi v. Weiss* (3rd Cir. 1982) 669 F2d 114, 119-120). Unlike a privilege, the right of privacy is not an absolute bar to discovery. Rather, courts balance the need for the information against the claimed privacy right. (*Stallworth v. Brollini* (ND CA 2012) 288 FRD 439, 444 (federal right of privacy); *West Bay One, Inc. v. Does 1-1,653* (D DC 2010) 270 FRD 13, 15-16; *Shaw v. Experian Information Solutions, Inc.* (SD CA 2015) 306 FRD 293, 301). Courts consider various factors in performing the balancing analysis, including “(1) the type of information requested, (2) the potential for harm in any subsequent non-consensual disclosure, (3) the adequacy of safeguards to prevent unauthorized disclosure, (4) the degree of need for access, and (5) whether there is an express statutory mandate, articulated public policy, or other recognizable public interest militating toward access.” (See *Seaton v. Mayberg* (9th Cir. 2010) 610 F3d 530, 539, 541, fn. 47).

Any purported concerns with respect to infringing an individual's right to privacy in this matter are particularly diminished by the Court's issuance of a protective order. Any information that Mr. Lee contends would implicate an individual's privacy right could be appropriately identified and protected pursuant to the terms of the protective order, to which all parties to this lawsuit agreed to be bound. (See Dkt. No. 241.)

As you have stated that Mr. Lee will be filing a summary judgment in the coming weeks, we are entitled to complete responses immediately. To that extent, unless we receive supplemental responses consistent with this letter by close of business on Friday July 7, 2017, we will proceed with a motion to compel.

I look forward to hearing from you soon.

Very truly yours,

OTTEN LAW, PC

Victor Otten, Esq.

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